

COMMITTEE ON INTERNATIONAL RELATIONS
COMMITTEE ON FOREIGN RELATIONS

Legislation on Foreign Relations Through 2000



MAY 2002

VOLUME II

CURRENT LEGISLATION AND
RELATED EXECUTIVE ORDERS

U.S. HOUSE OF REPRESENTATIVES

U.S. SENATE

Printed for the use of the Committees on International Relations and Foreign Relations of
the House of Representatives and the Senate respectively

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2002

70-365 PS

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

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FOREWORD

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

Volumes I (A and B), II, III and IV contain legislation and related material and are republished with amendments and additions on a regular basis. Volume V, which contains treaties and related material, will not be revised every year, but only as necessary.

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

HENRY J. HYDE,

Chairman, Committee on International Relations.

JOSEPH R. BIDEN, JR.,

Chairman, Committee on Foreign Relations.

May 17, 2002.

EXPLANATORY NOTE

All public laws included in this volume are codified and in force through the end of the second session of the 106th Congress. The texts of the public laws in this volume are printed as they appear in the United States Statutes at Large rather than the United States Code. Amendments are incorporated into the text and distinguished by a footnote.

All Executive orders and State Department delegations of authority are codified and in force as of December 31, 2000.

ABBREVIATIONS

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

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1. Authorizations and Appropriations

a. Establishment of the Department of State

Revised Statutes, as amended, derived from Act of July 27, 1789 (1 Stat. 28), Act of September 15, 1789 (1 Stat. 68), Act of September 23, 1789 (1 Stat. 97), Act of March 9, 1868 (15 Stat. 40) and Act of June 8, 1872 (17 Stat. 287).

SEC. 199.¹ There shall be at the seat of Government an Executive Department to be known as the Department of State, and a Secretary of State, who shall be the head thereof.

SEC. 200 * * * [Obsolete]

SEC. 201 * * * [Obsolete]

SEC. 202.² The Secretary of State shall perform such duties as shall from time to time be enjoined on or intrusted to him by the President relative to correspondences, commissions, or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the department, and he shall conduct the business of the department in such manner as the President shall direct.

SEC. 203.³ The Secretary of State shall have the custody and charge of the seal of the Department of State, and of all the books, records, papers, furniture, fixtures, and other property which on June 22, 1874, remained in and appertained to the Department, or were thereafter acquired for it.

SEC. 204 * * * [Obsolete]

SEC. 205 * * * [Obsolete]

¹22 U.S.C. 2651, R.S. Section 199, derived from Acts of July 27, 1789 (1 Stat. 28), and September 15, 1789 (1 Stat. 68)

Section 2 of Public Law 96-241 (94 Stat. 343; 22 U.S.C. 2651 note) provided:

“SEC. 2. (a) Any person aggrieved by an action of the Secretary of State may bring a civil action in an appropriate United States district court to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

“(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. Any review of the action of a court convened pursuant to such section shall be by petition of certiorari to the Supreme Court.

“(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

“(d) This section applies only with respect to the Secretary of State who is first appointed to that office after the enactment of this Act (May 3, 1980).”

²22 U.S.C. 2656, R.S. Section 202, derived from Acts of July 27, 1789 (1 Stat. 28), and September 15, 1789 (1 Stat. 68).

³22 U.S.C. 2657, R.S. Section 203, derived from Acts of July 27, 1789 (1 Stat. 29), and September 15, 1789 (1 Stat. 69).

SEC. 206.⁴ The Secretary of State shall procure from time to time such of the statutes of the several States as may not be in his office.

SEC. 207-9 * * * [Obsolete]

SEC. 210.⁵ The Secretary of State shall furnish to the Public Printer a correct copy of every treaty between the United States and any foreign government as soon as possible after it has been duly ratified and has been proclaimed by the President; and also of every postal convention made between the United States Postal Service, by and with the advice and consent of the President, on the part of the United States and foreign countries, as soon as possible after copies of such conventions have been transmitted to him by the United States Postal Service.

⁴ 22 U.S.C. 2659, R.S. Section 206, derived from Act of September 23, 1789 (1 Stat. 97).

⁵ 22 U.S.C. 2660, R.S. 210, derived from Acts of March 9, 1868 (15 Stat. 40) and June 8, 1872 (17 Stat. 287). The Reorganization Plan No. 20 of 1950 transferred to the Administrator of General Services a requirement of the Secretary of State to furnish "a correct copy of every act and joint resolution, as soon as possible after its approval by the President, or after it has become a law in accordance with the Constitution without such approval; * * *".

b. State Department Basic Authorities Act of 1956

Public Law 84-885 [S. 2569], 70 Stat. 890, approved August 1, 1956; as amended by Public Law 86-624 [H.R. 11602], 74 Stat. 411, approved July 12, 1960; Public Law 86-707 [H.R. 7758], 74 Stat. 800, approved September 6, 1960; Public Law 86-723 [S. 2633], 74 Stat. 847, approved September 8, 1960; Public Law 87-565 [Foreign Assistance Act of 1962, S. 2996], 76 Stat. 263, approved August 1, 1962; Public Law 88-205 [Foreign Assistance Act of 1963, H.R. 7885], 77 Stat. 391, approved December 16, 1963; Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92-352 [Foreign Relations Authorization Act of 1972, H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93-475 [State Department Authorization Act, Fiscal Year 1975; S. 3473], 88 Stat. 1439, approved October 26, 1974; Public Law 94-141 [Foreign Relations Authorization Act, Fiscal Year 1976; S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-45 [H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844, approved August 17, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 96-60 [Foreign Relations Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2153 and 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2195], 97 Stat. 1017, approved November 22, 1983; Public Law 98-533 [1984 Act to Combat International Terrorism, H.R. 6311], 98 Stat. 2706, approved October 19, 1984; Public Law 98-618 [Intelligence Authorization Act for Fiscal Year 1985, H.R. 5399], 98 Stat. 3298, approved November 8, 1984; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act, H.R. 4151], 100 Stat. 871, approved August 27, 1986; Public Law 99-569 [Intelligence Authorization Act for Fiscal Year 1987, H.R. 4759], 100 Stat. 3190, approved October 27, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181 at 4287, approved November 18, 1988; Public Law 101-231 [International Narcotics Control Act of 1989, H.R. 3611], 103 Stat. 1954, approved December 13, 1989; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; and by Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102-20 [Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991; H.R. 1176], 105 Stat. 68, approved March 27, 1991; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-134 [Department of State and Related Agencies Appropriations Act, 1996; title IV of sec. 101(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321, approved April 26, 1996; Public Law 104-316 [General Accounting Office Act of 1996; H.R. 3864], 110 Stat. 3826, approved October 19, 1996; Public Law 105-261 [Strom Thurmond National Defense

Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G of H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, subdivision B of division G of H.R. 4328], 112 Stat. 2681, approved October 21, 1998; [Public Law 105-323 [H.R. 4660], 112 Stat. 3029, approved October 30, 1998; Public Law 105-375 [S. 759], 112 Stat. 3385, approved November 12, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and by Public Law 106-553 [Department of State and Related Agency Appropriations Act, 2001, title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of H.R. 4942], 114 Stat. 2762A, approved December 21, 2000

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “State Department Basic Authorities Act of 1956”.¹

TITLE I—BASIC AUTHORITIES GENERALLY

ORGANIZATION OF THE DEPARTMENT OF STATE

SECTION 1.² (a) SECRETARY OF STATE.—

(1) The Department of State shall be administered, in accordance with this Act and other provisions of law, under the supervision and direction of the Secretary of State (hereinafter referred to as the “Secretary”).

(2) The Secretary, the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources³ shall be appointed by the President, by and with the advice and consent of the Senate.

(3)(A) Notwithstanding any other provision of law and except as provided in this section, the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State. The Secretary shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the Department of State, except where authority is inherent in or vested in the President.

(B)(i) The Secretary shall not have the authority of the Inspector General or the Chief Financial Officer.

(ii) The Secretary shall not have any authority given expressly to diplomatic or consular officers.

(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of

¹Sec. 111(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 654) added “That this Act may be cited as the ‘State Department Basic Authorities Act of 1956’.”

²22 U.S.C. 2651a. Sec. 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 402), amended and restated sec. 1. It formerly read as follows (formerly at 22 U.S.C. 2662):

“SECTION 1. The Secretary of State is authorized to establish, maintain, and operate passport and dispatch agencies.”

³Sec. 1(f)(1) of Public Law 103-415 (108 Stat. 4299) inserted “and the Deputy Secretary of State” after “Secretary”. Sec. 404(a) of the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-96) struck out “and the Deputy Secretary of State” and inserted in lieu thereof “the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources”.

the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

(b) UNDER SECRETARIES.—

(1) IN GENERAL.—There⁴ shall be in the Department of State not more than 6⁵ Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2)⁴ UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Arms Control and International Security, who shall assist the Secretary and the Deputy Secretary in matters related to international security policy, arms control, and nonproliferation. Subject to the direction of the President, the Under Secretary may attend and participate in meetings of the National Security Council in his role as Senior Advisor to the President and the Secretary of State on Arms Control and Nonproliferation Matters.

(3)⁶ UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.

(4)⁷ NOMINATION OF UNDER SECRETARIES.—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have.

(c)⁸ ASSISTANT SECRETARIES.—

⁴Sec. 1213(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-767) struck out “There” and inserted in lieu thereof “(1) THERE—”. Sec. 1213(2) of that Act added para. (2).

⁵Sec. 2305(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), raised this number from 5 to 6.

⁶Sec. 1313 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) added para. (3).

⁷Sec. 2306(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), added para. (4).

⁸Sec. 1112 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

“SEC. 1112. ASSISTANT SECRETARY OF STATE FOR VERIFICATION AND COMPLIANCE.

“(a) DESIGNATION OF POSITION.—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compli-

(1) IN GENERAL.—There shall be in the Department of State not more than 24⁹ Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5.

(2)¹⁰ ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—(A) There shall be in the Department of State an Assistant Secretary of State for Democracy,

ance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

“(b) DIRECTIVE GOVERNING THE ASSISTANT SECRETARY OF STATE.—

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall issue a directive governing the position of the Assistant Secretary.

“(2) ELEMENTS OF THE DIRECTIVE.—The directive issued under paragraph (1) shall set forth, consistent with this section—

“(A) the duties of the Assistant Secretary;

“(B) the relationships between the Assistant Secretary and other officials of the Department of State;

“(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

“(D) such matters as the Secretary considers appropriate.

“(c) DUTIES.—

“(1) IN GENERAL.—The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

“(2) PARTICIPATION OF THE ASSISTANT SECRETARY.—

“(A) PRIMARY ROLE.—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

“(B) REQUIREMENT FOR DESIGNATION.—Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

“(C) NATIONAL SECURITY LIMITATION.—

“(i) WAIVER BY PRESIDENT.—The President may waive the provisions of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

“(ii) WAIVER BY OTHERS.—With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

“(iii) TRANSMISSION OF WAIVER TO CONGRESS.—Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

“(3) RELATIONSHIP TO THE INTELLIGENCE COMMUNITY.—The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

“(4) REPORTING RESPONSIBILITIES.—The Assistant Secretary shall have responsibility within the Department of State for—

“(A) all reports required pursuant to section 306 of the Arms Control and Disarmament Act (22 U.S.C. 2577);

“(B) so much of the report required under paragraphs (4) through (6) of section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)(4) through (6)) as relates to verification or compliance matters; and

“(C) other reports being prepared by the Department of State as of the date of enactment of this Act relating to arms control, nonproliferation, or disarmament verification or compliance matters.”

⁹Sec. 2305(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), raised this number from 20 to 24.

¹⁰On December 2, 1996, the Secretary of State established an Advisory Committee on Religious Freedom Abroad, “as part of this Administration’s work to promote human rights issues.” See Department of State Public Notice 2489 (61 F.R. 67090).

Human Rights, and Labor who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy and such other related duties as the Secretary may from time to time designate. The Secretary of State shall carry out the Secretary's responsibility under section 502B of the Foreign Assistance Act of 1961 through the Assistant Secretary.

(B) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall maintain continuous observation and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

(i) Gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 116 and 502B of the Foreign Assistance Act of 1961 are relevant.

(ii) Preparing the statements and reports to Congress required under section 502B of the Foreign Assistance Act of 1961.

(iii) Making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 116 and 502B of the Foreign Assistance Act of 1961, and as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator of the Agency for International Development on the policy framework under which section 116(e) projects are developed and consulting with the Administrator on the selection and implementation of such projects.

(iv) Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

(3)¹¹ **NOMINATION OF ASSISTANT SECRETARIES.**—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility.

(d)¹² **OTHER SENIOR OFFICIALS.**—In addition to officials of the Department of State who are otherwise authorized to be appointed by the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of sec-

¹¹Sec. 2306(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), added para. (3).

¹²Sec. 2305(c) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), struck out former subsec. (d), which had authorized "not more than 66 Deputy Assistant Secretaries of State", and redesignated subsecs. (e) through (h), as subsecs. (d) through (g), respectively.

tion 5315 of title 5, United States Code, four other such appointments are authorized.

(e)¹³ COORDINATOR FOR COUNTERTERRORISM.—

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

(2) DUTIES.—

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

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

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

(f)¹⁴ QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to matters relating to personnel in the Department of State, or that officer’s principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.

(g)¹⁵ QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to diplomatic security, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (1) management, and (2) Federal law enforcement, intelligence, or security.

SEC. 2.¹⁶ The Secretary of State, may use funds appropriated or otherwise available to the Secretary to¹⁷

(a) provide for printing and binding outside the States of the United States¹⁸ and the District of Columbia without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

¹³Sec. 2301 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-824), added this subsec. as subsec. (f). It was redesignated as subsec. (e) by sec. 2305(c)(2) of that Act.

¹⁴Sec. 2303 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), added this subsec. as subsec. (g). It was redesignated as subsec. (f) by sec. 2305(c)(2) of that Act.

¹⁵Sec. 2304 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), added this subsec. as subsec. (h). It was redesignated as subsec. (g) by sec. 2305(c)(2) of that Act.

¹⁶22 U.S.C. 2669.

¹⁷Sec. 114 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 411), inserted “may use funds appropriated or otherwise available to the Secretary to” for “when funds are appropriated therefor, may—”.

¹⁸This reference to the “States of the United States” was substituted in lieu of a reference to the “continental United States” by sec. 2 of Public Law 86-624 (74 Stat. 411).

(b)¹⁹ for the purpose of promoting and maintaining friendly relations with foreign countries through the prompt settlement of certain claims, settle and pay any meritorious claim against the United States which is presented by a government of a foreign country for damage to or loss of real or personal property of, or personal injury to or death of, any national of such foreign country: *Provided*, That such claim is not cognizable under any other statute or international agreement of the United States and can be settled for not more than \$15,000 or the foreign currency equivalent thereof.

(c)²⁰ employ individuals or organizations, by contract, for services abroad and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government; for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of subsection (f) and of any other law administered by the Secretary concerning the employment of such individuals abroad); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States.²¹

(d) provide for official functions and courtesies;

(e) purchase uniforms;

(f) pay tort claims, in the manner authorized in the first paragraph of section 2672, as amended, of title 28 of the United States Code when such claims arise in foreign countries in connection with Department of State operations abroad;

(g)²² obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum rate payable for GS-18 under section 5332 of such title 5;²³

(h)²² directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services acquisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, mainte-

¹⁹Subsec. (b) was added by sec. 402 of Public Law 87-565 (76 Stat. 263; 22 U.S.C. 2669), the Foreign Assistance Act of 1962. Former sec. 2(b) was repealed by sec. 511(a)(2) of Public Law 86-707 (74 Stat. 800), the Overseas Differentials and Allowances Act.

²⁰Sec. 303(a)(1) of Public Law 98-533 (98 Stat. 2710) amended and restated para. (c) up to the first semicolon. Subsequently, sec. 118 of Public Law 99-93 (99 Stat. 412) added the text of par. (c) up to the second semicolon. It formerly read as follows: "(c) employ aliens, by contract, for services abroad;"

²¹Sec. 137 and sec. 180(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397, 416), made identical amendments, adding "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States" before the period.

²²Sec. 303(a)(2) of Public Law 98-533 (98 Stat.) added pars. (g) and (h).

²³Sec. 111 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21), struck out "and" here, and added subsecs. (i), (j), and (k).

nance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 303(c)(2) of the Federal Property and Administrative Services Act of 1949;

(i)²³ pay obligations assumed in Germany on or after June 5, 1945;

(j)²³ provide telecommunications services;^{24, 25}

(k)²⁴ provide maximum physical security in Government-owned and leased properties and vehicles abroad; and²⁴

(l)²⁴ purchase special purpose passenger motor vehicles without regard to any price limitation otherwise established by law.

(m)²⁵ pay obligations arising under international agreements, conventions, and binational contracts to the extent otherwise authorized by law.

SEC. 3.²⁶ The Secretary of State is authorized to—

(a) obtain insurance on official motor vehicles operated by the Department of State in foreign countries, and pay the expenses incident thereto;

(b) rent tie lines and teletype equipment;

(c) provide ice and drinking water for United States Embassies and Consulates abroad;

(d) pay excise taxes on negotiable instruments which are negotiated by the Department of State abroad;

(e)²⁷ pay the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in international educational exchange activities under the jurisdiction of the Department of State;

(f) pay expenses incident to the relief, protection, and burial of American seamen, and alien seamen from United States vessels in foreign countries and in the United States, Territories and possessions;

(g) pay the expenses incurred in the acknowledgment of the services of officers and crews of foreign vessels and aircraft in rescuing American seamen, airmen, or citizens from shipwreck or other catastrophe abroad or at sea;

(h) rent or lease, for periods of less than ten years, such offices, buildings, grounds, and living quarters for the use of the

²⁴ Sec. 4 of Public Law 102-20 (105 Stat. 68) struck out “and” at the end of subsec. (j); struck out the period ending subsec. (k), and inserted in lieu thereof “; and”; and added a new subsec. (l).

²⁵ Sec. 120 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 658), also struck out “and” at the end of subsec. (j); struck out the period ending subsec. (k), and inserted in lieu thereof “; and” (previously amended by Public Law 102-20); and also added a new subsection, originally designated as “(l)”. Sec. 162(k)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), redesignated the second subsec. (l) as subsec. (m).

²⁶ 22 U.S.C. 2670.

²⁷ Authority granted to the Secretary of State under subsec. (e) was abolished by sec. 9(a)(7) of Reorganization Plan No. 2 of 1977 (establishing the ICA).

Foreign Service abroad as he may deem necessary, and make payments therefor in advance;

(i) maintain, improve, and repair properties rented or leased pursuant to authority contained in subsection (h) of this section and furnish fuel, water, and utilities for such properties;

(j)²⁸ provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad²⁹ who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible;

(k)³⁰ subject to the availability of appropriated funds, obtain insurance on the historic and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department;³¹

(l)³² make payments in advance, of the United States share of necessary expenses for international fisheries commissions, from appropriations available for such purpose; and³¹

(m)³¹ establish, maintain, and operate passport and dispatch agencies.

SEC. 4.³³ (a)³⁴ The Secretary of State is authorized to—

(1)³⁴ subject to subsection (b), make expenditures, from such amounts as may be specifically appropriated therefor, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purposes may be accounted for in accordance with section 291 of the Revised Statutes (31 U.S.C. 107);³⁵ and

(2)³⁴ delegate to subordinate officials the authority vested in him by section 291 of the Revised Statutes³⁵ pertaining to certification of expenditures.

(b)³⁴(1) Expenditures described under subsection (a) shall be made only for such activities as—

(A) serve to further the realization of foreign policy objectives;

(B) are a matter of urgency to implement;

(C) with respect to activities the expenditures for which are required to be certified under subsection (a), require confiden-

²⁸Subsec. (j) was added by sec. 2 of Public Law 95-45 (91 Stat. 221).

²⁹The words "or destitute United States citizens abroad" were added by sec. 108(a) of Public Law 95-426 (92 Stat. 966). Sec. 108(b) of the same Act provided that this amendment would take effect on October 1, 1978.

³⁰Subsec. (k) was added by sec. 126(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1342).

³¹Sec. 162(k)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "and" at the end of subsec. (k); struck out the period at the end of subsec. (l), and inserted in lieu thereof a semicolon; and added a new subsec. (m).

³²Sec. 166 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), added a new subsec. (l).

³³22 U.S.C. 2671.

³⁴Sec. 122 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1023), redesignated existing subssecs. (a) and (b) as pars. (1) and (2), redesignated the existing text as subsec. (a), added the reference to subsec. (b) in par. (1) of subsec. (a), and added new subssecs. (b), (c), and (d).

³⁵See 31 U.S.C. 3526(e), pursuant to sec. 4(b) of Public Law 97-258 (96 Stat. 1067), which enacted title 31 U.S.C.

tiality in the best interests of the conduct of foreign policy by the United States; and

(D) are not otherwise prohibited by law.

(2) Activities described in paragraph (1) include—

(A) the evacuation of United States Government employees and their dependents and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster;

(B) loans made to destitute citizens of the United States who are outside the United States and made to provide for the return to the United States of its citizens;

(C) visits by foreign chiefs of state or heads of government to the United States;

(D) travel of delegations representing the President at any inauguration or funeral of a foreign dignitary;

(E) travel of the President, the Vice President, or a Member of Congress to a foreign country, including advance arrangements, escort, and official entertainment;

(F) travel of the Secretary of State within the United States and outside the United States, including official entertainment;

(G) official representational functions of the Secretary of State and other principal officers of the Department of State;

(H) official functions outside the United States the expenses for which are not otherwise covered by amounts appropriated for representation allowances;

(I) investigations and apprehension of groups or individuals involved in fraudulent issuance of United States passports and visas; and

(J) gifts of nominal value given by the President, Vice President, or Secretary of State to a foreign dignitary.

(c)³⁴ The Inspector General of the Department of State³⁶ shall conduct a periodic³⁷ audit of the Department of State's emergency expenditures and prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with subsections (a) and (b) of this section.

(d)³⁴ With regard to the repatriations loan program, the Secretary of State shall—

(1) require the borrower to provide a verifiable address and social security number at the time of application;

(2) require a written loan agreement which includes a repayment schedule;

(3) bar passports from being issued or renewed for those individuals who are in default;

(4) refer any loan more than one year past due to the Department of Justice for litigation;

(5) obtain addresses from the Internal Revenue Service for all delinquent accounts which have social security numbers;

³⁶Sec. 125(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out "and the Foreign Service" at this point.

³⁷Sec. 125(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out "an annual confidential" and inserted in lieu thereof "a periodic".

(6) report defaults to commercial credit bureaus as provided in section 3711(e)³⁸ of title 31, United States Code;

(7) be permitted to use any funds necessary to contract with commercial collection agencies, notwithstanding section 3718(c) of title 31, United States Code;

(8) charge interest on all loans as of May 1, 1983, with the rate of interest to be that set forth in section 3717(a) of title 31, United States Code;

(9) assess charges, in addition to the interest provided for in paragraph (8), to cover the costs of processing and handling delinquent claims, as of May 1, 1983;

(10) assess a penalty charge, in addition to the interest provided for in paragraphs (8) and (9), of 6 percent per year for failure to pay any portion of a debt more than ninety days past due; and

(11) implement the interest and penalty provisions in paragraphs (8), (9), and (10) for all current and future loans, regardless of whether the debts were incurred before or after May 1, 1983.

SEC. 5.³⁹ The Secretary of State is authorized to—

(a) provide for participation by the United States in international activities which arise from time to time in the conduct of foreign affairs for which provision has not been made by the terms of any treaty, convention, or special Act of Congress: *Provided*, That this subsection shall not be construed as granting authority to accept membership for the United States in any international organization, or to participate in the activities of any international organization for more than one year without approval by the Congress; and

(b) pay the expenses of participation in activities in which the United States participates by authority of subsection (a) of this section, including, but not limited to the following:

³⁸ Sec. 115(g)(2)(D) of Public Law 104-316 (110 Stat. 3835) struck out “section 3711(f)” and inserted in lieu thereof “section 3711(e)”.

³⁹ 22 U.S.C. 2672. The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$870,833,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That of the funds appropriated in this paragraph, \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in calendar year 2000 prior to the date of enactment of this Act to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed the budget for the biennium 2000-2001 of \$2,535,700,000: *Provided further*, That if the Secretary of State is unable to make the aforementioned certification, the \$100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations, subject to the reprogramming procedures contained in Section 605 of this Act: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”.

- (1) Employment of aliens;
- (2) Travel expenses without regard to the Standardized Government Travel Regulations and to the rates of per diem allowances in lieu of subsistence expenses under the Travel Expense Act of 1949, as amended (5 U.S.C. 5701-5708).⁴⁰
- (3) Travel expenses of persons serving without compensation in an advisory capacity while away from their homes or regular places of business not in excess of those authorized for regular officers and employees traveling in connection with said international activities; and
- (4) Rental of quarters by contract or otherwise.

SEC. 6.⁴¹ The provisions of section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), and regulations thereunder, applicable to expenses incurred pursuant to that Act, may be applicable to the obligation and expenditure of funds in connection with United States participation in the International Civil Aviation Organization.

SEC. 7.⁴² The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles in possession of the Foreign Service abroad, in accordance with section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), shall be available without fiscal year limitation for replacement of an equal number of such vehicles.

SEC. 8.⁴³ The Secretary of State may allocate or transfer to any department, agency, or independent establishment of the United States Government (with the consent of the head of such department, agency, or establishment) any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds are appropriated in accordance with authority granted in this Act or under authority governing the activities of such department, agency, or independent establishment.

SEC. 9.⁴⁴ The Secretary of State is authorized to enter into contracts in foreign countries involving expenditures from funds appropriated or otherwise made available to the Department of State, without regard to the provisions of section 3741 of the Revised Statutes (41 U.S.C. 22): *Provided*, That nothing in this section shall be construed to waive the provisions of section 431 of title 18 of the United States Code.

SEC. 10.⁴⁵ Appropriated funds made available to the Department of State for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and

⁴⁰ Formerly 5 U.S.C. 835-842, until codified by sec. 7(b) of Public Law 89-554 (80 Stat. 378; approved September 6, 1966).

⁴¹ 22 U.S.C. 2673.

⁴² 22 U.S.C. 2674.

⁴³ 22 U.S.C. 2675. Sec. 121 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1023) amended and restated sec. 8. It formerly read as follows:

"SEC. 8. The Secretary of State may, when authorized in an appropriation or other law, transfer to any department, agency, or independent establishment of the Government, with the consent of the head thereof, any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds are appropriated."

⁴⁴ 22 U.S.C. 2676.

⁴⁵ 22 U.S.C. 2677.

transportation of personal effects, household goods, or automobiles of such personnel shall be available for such expenses when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed during that same fiscal year.

REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN
AUTHORIZATIONS

SEC. 11.⁴⁶ If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177; 2 U.S.C. 901 et seq.)) for a fiscal year pursuant to any authorization of appropriations provided by an Act other than an appropriation Act is less than the authorization amount and a provision of that Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.

SEC. 12.⁴⁷ The Secretary of State, with the approval of the Office of Management and Budget,⁴⁸ shall prescribe the maximum rates per diem in lieu of subsistence (or of similar allowances therefor) payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

SEC. 13.⁴⁹ (a)⁵⁰ There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitations, for expenses (including those authorized by the Foreign Service Act of 1980)⁵¹ and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of (1) central reproduction, editorial, data processing, audiovisual, library and administrative support services; (2) central services for supplies and equipment (including repairs) (3) such other administrative services as the Secretary, with the approval of the

⁴⁶22 U.S.C. 2678. Sec. 11 was added by sec. 106 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 20). Previously, sec. 11 was repealed by Public Law 99-550 (100 Stat. 3067). It formerly read: "Notwithstanding section 1344(a) of title 31, United States Code, the Deputy Secretary of State is authorized to use Government-owned vehicles for security purposes for travel between his or her residence and places where official functions are performed."

⁴⁷22 U.S.C. 2679.

⁴⁸Reorganization Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.

⁴⁹22 U.S.C. 2684. Sec. 13 was added by sec. 405 of Public Law 88-205 (77 Stat. 391) and further amended by sec. 407(c) of Public Law 92-226 which deleted the last sentence of sec. 13(a) which formerly read as follows: "There is hereby authorized to be appropriated such amounts as may be necessary to provide capital for the fund." The original sec. 13, as repealed Sept. 6, 1960, by sec. 511(a)(2) of Public Law 86-707 (74 Stat. 800), read as follows: "Allowances granted under sec. 901(1) of the Foreign Service Act of 1946 (22 U.S.C. 1311(1)), may include water, in addition to the utilities specified."

⁵⁰Subsection designation "(a)" and subsec. (b) were added by sec. 109(a) of Public Law 95-426 (92 Stat. 966). Such amendment became effective October 1, 1978.

⁵¹The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2201(b) of Public Law 96-465 (94 Stat. 2157).

Bureau of the Budget,⁴⁸ determines may be performed more advantageously and more economically as central services; and⁵² (4)⁵³ medical and health care services. Such fund shall also be available without fiscal year limitation to carry out the purposes of title II of this Act.⁵² The capital of the fund shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital.⁵⁴ The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of State, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will approximate the expense of operations, including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Secretary determines to be excess to the needs of the fund.

(b)⁵⁰ The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.

SEC. 14.⁵⁵ (a) Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) the Secretary of State determines that—

(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

⁵²Sec. 112 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21) inserted “and” before clause (4); struck out clause (5), which formerly read as follows: “(5) services and supplies to carry out title II of this Act”; and added the sentence which begins “Such fund”.

⁵³Sec. 109(a) of Public Law 95-426 (92 Stat. 966) added clause (4), effective October 1, 1978.

⁵⁴Sec. 109(a) of Public Law 95-426 (92 Stat. 966) struck out a sentence which previously appeared at this point. It formerly read as follows: “Not to exceed \$750,000 in net assets shall be transferred to the fund for purposes of providing capital.” Such amendment became effective on October 1, 1978.

⁵⁵22 U.S.C. 2679a. Sec. 14 was added by sec. 121 of Public Law 97-241 (96 Stat. 280). A prior sec. 14, part of the original Act, was repealed by Public Law 86-707 (74 Stat. 798). Subsequently, a new sec. 14 was added by sec. 10 of Public Law 93-475 (88 Stat. 1441) and amended by Public Law 93-475, Public Law 94-161, and Public Law 95-105. It was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). Such section formerly concerned the payment of a gratuity to the surviving dependents of a Foreign Service employee who died as the result of injuries sustained in the performance of duty outside the United States. This gratuity is now covered at Sec. 413 of the Foreign Service Act of 1980.

(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

(b) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

SEC. 15.⁵⁶ (a)(1) Notwithstanding any provision of law enacted before the date of enactment of the State Department/USIA Authorization Act, Fiscal Year 1975,⁵⁷ no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

(B) in excess of an amount prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this section—

(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supersedes the provisions of this section; and

(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵⁸ of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

⁵⁶ 22 U.S.C. 2680. Sec. 15 was amended by sec. 407(b) of Public Law 92-226 (86 Stat. 35) and further amended by sec. 102 of Public Law 92-352 (86 Stat. 490). Subsec. (a) was further amended by sec. 11 of Public Law 93-475 (88 Stat. 1442). It formerly read as follows: "Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress. The provisions of this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law."

⁵⁷ Public Law 93-475 (88 Stat. 1439), approved October 26, 1974.

⁵⁸ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

SEC. 16.⁵⁹ The first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the "Defense Base Act") shall not apply with respect to such contracts as the Secretary of State may determine which are contracts with persons employed to perform work for the Department of State or the Foreign Service on an intermittent basis for not more than 90 days in a calendar year.

SEC. 17.⁶⁰ The Secretary of State is authorized to use appropriated funds for unusual expenses similar to those authorized by section 5913 of title 5, United States Code, incident to the operation and maintenance of the living quarters of the United States Representative to the Organization of American States.

SEC. 18.⁶¹ It is the sense of the Congress that the position of United States ambassador to a foreign country should be accorded to men and women possessing clearly demonstrated competence to perform ambassadorial duties. No individual should be accorded the position of United States ambassador to a foreign country primarily because of financial contributions to political campaigns.

SEC. 19.⁶² Each fiscal year (beginning with fiscal year 1977), the Secretary of State may use⁶³ funds appropriated for the American Sections, International Joint Commission, United States and Canada, for representation expenses and official entertainment within the United States for such American Sections.

SEC. 20.⁶⁴ Any expenditure for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Controller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such expenditure and necessary to facilitate the audit.

SEC. 21.⁶⁵ * * * [Repealed—1990]

SEC. 22.⁶⁶ (a) The Secretary of State may compensate, pursuant to regulations which he shall prescribe, for the cost of participating

⁵⁹ 22 U.S.C. 2680a. Sec. 16 was added by sec. 122 of Public Law 97-241 (96 Stat. 281). A prior sec. 16, as added by Public Law 93-475 and amended by Public Law 94-426, was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). Sec. 16 formerly described the duties and responsibilities of a United States chief of mission. A similar provision is now included at Sec. 207 of the Foreign Service Act of 1980.

⁶⁰ 22 U.S.C. 2687. Sec. 17 was added by sec. 101(c) of Public Law 94-141.

⁶¹ 22 U.S.C. 2688. Sec. 18 was added by sec. 104 of Public Law 94-141.

⁶² 22 U.S.C. 2689. Sec. 19 was added by sec. 104 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

⁶³ The words "not to exceed \$1,500 of the" which previously appeared at this point, were struck by sec. 110(a) of Public Law 95-426 (92 Stat. 967). Such amendment became effective October 1, 1978.

⁶⁴ 22 U.S.C. 2690. Sec. 20 was added by sec. 116 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

⁶⁵ Formerly 22 U.S.C. 2691. Sec. 603(a)(18) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5084) repealed sec. 21. Previously, sec. 21 was added by sec. 112 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848), and substantially amended by sec. 109 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 397), and earlier amended by sec. 119 of Public Law 95-426 (92 Stat. 970). Sec. 21 provided for the issuance of visas to aliens, otherwise excludable because of organizational affiliations, to participate in the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975).

⁶⁶ 22 U.S.C. 2692. Sec. 22 was added by sec. 113(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848). This section became effective on October 1, 1977.

in any proceeding or on any advisory committee or delegation of the Department of State, any organization or person—

(1) who is representing an interest which would not otherwise be adequately represented and whose participation is necessary for a fair determination of the issues taken as a whole; and

(2) who would otherwise be unable to participate in such proceeding or on such committee or delegation because such organization or person cannot afford to pay the costs of such participation.

(b) Of the funds appropriated for salaries and expenses for the Department of State, not to exceed \$250,000 shall be available in any fiscal year for compensation under this section to such organizations and persons.

ADMINISTRATIVE SERVICES⁶⁷

SEC. 23.⁶⁷ (a) AGREEMENTS.—Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the Broadcasting Board of Governors⁶⁸ and the Agency for International Development)⁶⁹ determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.

(b)^{67, 70} PAYMENT.—

(1) A Federal agency which obtains administrative services from the Department of State pursuant to an agreement authorized under subsection (a) shall make full and prompt pay-

⁶⁷ 22 U.S.C. 2695. Sec. 23 was added by sec. 111(a) of Public Law 95-426 (92 Stat. 967). Sec. 23 became effective October 1, 1978.

Sec. 118 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 657), added the section heading; designated the original text as subsec. "(a) AGREEMENTS.—"; and added subsec. (b).

⁶⁸ Sec. 1335(1)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

⁶⁹ Sec. 1225(f) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out ", the Agency for International Development, and the Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Agency for International Development".

⁷⁰ Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

ment for such services through advance of funds or reimbursement.

(2) The Secretary of State shall bill each Federal agency for amounts due for services provided pursuant to subsection (a). The Secretary shall notify a Federal agency which has not made full payment for services within 90 days after billing that services to the agency will be suspended or terminated if full payment is not made within 180 days after the date of notification. Except as provided under paragraph (3), the Secretary shall suspend or terminate services to a Federal agency which has not made full payment for services under this section 180 days after the date of notification. Any costs associated with a suspension or termination of services shall be the responsibility of, and shall be billed to, the Federal agency.

(3) The Secretary of State may waive the requirement for suspension or termination under paragraph (2) with respect to such services as the Secretary determines are necessary to ensure the protection of life and the safety of United States Government property. A waiver may be issued for a period not to exceed one year and may be renewed.

SEC. 24.⁷¹ (a) There are authorized to be appropriated for the Department of State, in addition to amounts otherwise authorized to be appropriated for the Department, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b)(1)⁷² In order to maintain the levels of program activity for the Department of State provided for each fiscal year by the annual authorizing legislation, there are authorized to be appropriated for the Department of State such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the earlier of—

(A) the calendar year which ended during the fiscal year preceding such fiscal year, or

(B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.

(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

(3) In order to eliminate substantial gains to the approved levels of overseas operations for the Department of State, the Secretary of State shall transfer to the Buying Power Maintenance account such amounts in any appropriation account under the heading "Administration of Foreign Affairs" as the Secretary determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

(4) In order to offset adverse fluctuations in foreign currency exchange rates or overseas wage and price changes, the Secretary of State may transfer from the Buying Power Maintenance account to any appropriation account under the heading "Administration of

⁷¹ 22 U.S.C. 2696. Sec. 24 was added by sec. 105 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 396).

⁷² Subsec. (b) was amended and restated by sec. 112(a) of Public Law 97-241 (96 Stat. 277).

Foreign Affairs” such amounts as the Secretary determines are necessary to maintain the approved level of operations under that appropriation account.

(5) Funds transferred by the Secretary of State from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Secretary from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

(7)⁷³ (A) Subject to the limitations contained in this paragraph, not later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available for an account under “Administration of Foreign Affairs”, the Secretary of State may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

(B) The balance of the Buying Power Maintenance account may not exceed \$100,000,000 as a result of any transfer under this paragraph.

(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 34 and shall be available for obligation or expenditure only in accordance with the procedures under such section.

(D) The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided for in advance in appropriations Acts.

(c) Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be made available until expended.

(d)⁷⁴ (1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the Department of State in the Department of State Appropriations Act, for either⁷⁵ fiscal year of any two-year authorization cycle may be appropriated for such⁷⁵ fiscal year for any other account of the Department of State.

⁷³Sec. 117(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 656), added par. (7). Clause (E), repealed by 122(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), had provided that “[T]his paragraph shall cease to have effect after September 30, 1993.”

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

⁷⁴Sec. 117(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 657), amended and restated subsec. (d). Sec. 122(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out para. (4) of subsec. (d), which had provided that, “[T]his subsection shall cease to have effect after September 30, 1993.”

⁷⁵Sec. 122(a)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out “the second” and inserted in lieu thereof “either”. Sec. 122(a)(2)(B) of that Act struck out “such second” and inserted in lieu thereof “such”.

(2)⁷⁶ Amounts appropriated for the “Diplomatic and Consular Programs” account may not exceed by more than 5 percent the amount specifically authorized to be appropriated for such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

(3) The requirements and limitations of section 15 shall not apply to the appropriation of funds pursuant to this subsection.

(e)⁷⁷ Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be obligated for twelve-month contracts which are to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year.

SEC. 25.⁷⁸ (a) The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted under section (a), the income from any gift property held under subsection (c) or (d) (except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restoration, shall be deposited in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress, but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds.⁷⁹

(c) The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be

⁷⁶The first sentence of this para. was amended and restated by sec. 122(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392).

⁷⁷Sec. 107 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21), added subsec. (e).

⁷⁸22 U.S.C. 2697. Sec. 25 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153).

⁷⁹The phrase in the last sentence, “but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds” was added by sec. 125 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341).

deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

(d)(1) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a) and shall either use such property for the operation of the Department of State (including the Foreign Service) and the performance of its functions or lease or hire such property, except that any such property not required for the operation of the Department of State (including the Foreign Service) or the performance of its functions may be liquidated by the Secretary of State whenever in the judgment of the Secretary of State the purposes of the gift will be served thereby. The Secretary of State may insure any property held under this subsection. Except as provided in paragraph (2), the Secretary shall deposit the income from any property held under this subsection with the Secretary of the Treasury as provided in subsection (b).

(2) The income from any real property or tangible personal property held under this subsection shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured.

(e) For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

(f) The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors⁸⁰ and the Administrator of the Agency for International Development⁸¹ with respect to the Board and the Agency⁸².

SEC. 26.⁸³ (a) The Secretary of State may, without regard to section 3106 of title 5, United States Code, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

⁸⁰Sec. 1335(1)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Previously, sec. 303(b) of Public Law 97-241 (96 Stat. 291) substituted "Director of the United States Information Agency" for "Director of the International Communication Agency", wherever it appeared in law.

⁸¹Sec. 1335(1)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "with respect to their respective agencies" and inserted in lieu thereof "with respect to the Board and the Agency".

⁸²Sec. 1422(b)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-792) struck out "Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "Administrator of the Agency for International Development".

⁸³22 U.S.C. 2698. Sec. 26 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153).

(b) The authority available to the Secretary of State under this section shall be available to the Broadcasting Board of Governors,⁸⁴ and the Administrator of the Agency for International Development⁸⁵ with respect to the Board and the Agency.⁸⁶

SEC. 27.⁸⁷ (a) In order to expand employment opportunities for family members of the United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

(b) Any member of a family of a member of the Foreign Service may accept gainful employment in a foreign country unless such employment—

(1) would violate any law of such country or of the United States; or

(2) could, as certified in writing by the United States chief of mission to such country, damage the interests of the United States.

SEC. 28.⁸⁸ The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

SEC. 29.⁸⁹ Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include hiring, transporting, and payment of teachers and other necessary personnel. Notwithstanding any other provision of law, where the child of a

⁸⁴ Sec. 1335(1)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "Director of the United States Information Agency, the chairman of the Board for International Broadcasting," and inserted in lieu thereof "Broadcasting Board of Governors". Previously, sec. 303 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 64), struck out "International Communication Agency" and inserted in lieu thereof "United States Information Agency, the chairman of the Board for International Broadcasting."

⁸⁵ Sec. 1422(b)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-792) struck out "Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "Administrator of the Agency for International Development".

⁸⁶ Sec. 1335(1)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "with respect to their respective agencies" and inserted in lieu thereof "with respect to the Board and the Agency".

⁸⁷ 22 U.S.C. 2699. Sec. 27 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153).

⁸⁸ 22 U.S.C. 2700. Sec. 28 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153).

⁸⁹ 22 U.S.C. 2701. Sec. 29 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2154).

United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section.⁹⁰

SEC. 30.⁹¹ (a) The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all

⁹⁰Sec. 2201 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-804), added text beginning at "Notwithstanding any other provision of law".

⁹¹22 U.S.C. 2702. Sec. 30 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2155).

references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, the United States Code, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office of employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States chief of mission or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.

SEC. 31.⁹² (a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292-300) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

⁹² 22 U.S.C. 2703. Sec. 31 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2156).

(b) The Secretary may establish and maintain emergency commissary or mess services in places abroad where, in the judgment of the Secretary, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds, except that an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad, and, where determined by the Secretary to be appropriate due to exceptional circumstances, to United States citizens hired outside of the host country to serve as teaching staff for such dependents abroad.⁹³ Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

(d) Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.

(e)⁹⁴ The⁹⁵ Secretary of State may make grants to child care facilities, to offset in part the cost of such care, in Moscow and at no more than five other posts abroad where the Secretary determines that due to extraordinary circumstances such facilities are necessary to the efficient operation of the post. In making that determination, the Secretary shall take into account factors such as—

(1) whether Foreign Service spouses are encouraged to work at the post because—

(A) the number of members of the post is subject to a ceiling imposed by the receiving country; and

(B) Foreign Service nationals are not employed at the post; and

(2) whether local child care is available.

⁹³Sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), added text to end of sentence beginning with “, and, where determined by the Secretary * * *”.

Functions vested in the Secretary of State by the amendment in Public Law 102-138 were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁹⁴Sec. 147 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 38), added subsec. (e).

⁹⁵Sec. 124 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out “For the fiscal years 1992 and 1993, the” and inserted in lieu thereof “The”. Previously, sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 658), renewed this authority originally established for fiscal years 1990 and 1991.

SEC. 32.⁹⁶ The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) special agents⁹⁷ of the Department of State who are on authorized protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status. The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors⁹⁸ and the Administrator of the Agency for International Development⁹⁹ with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.¹⁰⁰

SEC. 33.¹⁰¹ The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction:

(1) A passport, during its period of validity (if such period is the maximum period authorized by law), issued by the Secretary of State to a citizen of the United States.

(2) The report, designated as a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad. For purposes of this paragraph, the term 'consular officer' includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.¹⁰²

⁹⁶ 22 U.S.C. 2704. Sec. 32 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2157).

⁹⁷ Sec. 125(b) of Public Law 99-93 (99 Stat. 417) added the words "special agents" in lieu of "security officers". Sec. 125(c) of the same Act repealed section 4 of the Act entitled "An Act to provide authority to protect heads of foreign states and other officials" approved August 27, 1964 (2 U.S.C. 2667), and the Act entitled "An Act to authorize certain officers and employees of the Department of State and the Foreign Service to carry firearms" approved June 28, 1955 (22 U.S.C. 2666).

⁹⁸ Sec. 1335(1)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-7789) struck out "the Director of the United States Information Agency" and inserted in lieu thereof "the Broadcasting Board of Governors".

⁹⁹ Sec. 1422(b)(3)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "Administrator of the Agency for International Development".

¹⁰⁰ Sec. 303(c) of Public Law 98-533 (98 Stat. 2711) added this sentence.

¹⁰¹ 22 U.S.C. 2705. Sec. 33 was added by sec. 117 of Public Law 97-241 (96 Stat. 279).

¹⁰² Sec. 2222(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-818) added text beginning with "For purposes of this paragraph".

SEC. 34.¹⁰³ (a) Unless the Committee on International Relations and the Committee on Appropriations¹⁰⁴ of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations¹⁰⁵ of the Senate are notified fifteen days in advance of the proposed reprogramming, funds appropriated for the Department of State shall not be available for obligation or expenditure through any reprogramming of funds—

- (1) which creates new programs;
- (2) which eliminates a program, project, or activity;
- (3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;
- (4) which relocates an office or employees;
- (5) which reorganizes offices, programs, or activities;
- (6) which involves contracting out functions which had been performed by Federal employees; or
- (7) which involves a reprogramming in excess of \$1,000,000¹⁰⁶ or 10 percent, whichever is less and which (A) augments existing programs, projects, or activities, (B) reduces by 10 percent or more the funding for any existing program, project, activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b)¹⁰³ Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

(c)¹⁰⁷ The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the

¹⁰³ 22 U.S.C. 2706. Sec. 34(a) was originally added as sec. 34 by sec. 123 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1025). Sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1339) redesignated it as subsec. (a) and added a new subsec. (b).

Part D, title V of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 486), the Cambodian Genocide Justice Act, in part, established the Office of Cambodian Genocide Information in the Department of State. Sec. 573(d) under that part required:

“(d) NOTIFICATION TO CONGRESS.—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 with respect to the Office [of Cambodian Genocide Information] or any of its programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.”

¹⁰⁴ Sec. 2243(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-823), struck out “Foreign Affairs” and inserted in lieu thereof “International Relations and the Committee on Appropriations”.

¹⁰⁵ Sec. 2243(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-823), inserted “and the Committee on Appropriations” after “Foreign Relations”.

¹⁰⁶ Sec. 122(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out “\$500,000” and inserted in lieu thereof “\$1,000,000”.

Previously, sec. 117(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 657), struck out “\$250,000” and inserted in lieu thereof “\$500,000”.

¹⁰⁷ Sec. 2243(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-823), added subsec. (c).

Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.

SEC. 35.¹⁰⁸ (b)¹⁰⁹ The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall—

(1)¹¹⁰ exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area;

¹⁰⁸22 U.S.C. 2707. Sec. 162(k)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out subsec. (a) and substantially restructured subsec. (b). Subsec. (a) had provided for the Secretary of State to assign responsibility to an Under Secretary for international communications and information policy matters. Subsec. (b) had provided for the establishment of the State Department Office of Coordinator for International Communications and Information Policy, and for the appointment of a Coordinator with rank of ambassador.

The Secretary of State delegated functions authorized under this section to the Assistant Secretary for Economic and Business Affairs (Department of State Public Notice 2086; sec. 9 of Delegation of Authority No. 214; 59 F.R. 50790).

Sec. 35 originally was added by sec. 124 of the Department of State Administration Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1025).

Sec. 162(k)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), provided:

“(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.”

¹⁰⁹Sec. 162(k)(1)(B)(i) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out the text preceding para. (1) in subsec. (b) and added this new sentence. Designation of subsec. (b) was retained; it should probably have been stricken.

Sec. 162(k)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), provided:

“(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.”

¹¹⁰Sec. 162(k)(1)(B)(ii)-(v) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out former para. (2); redesignated para. (1) as para. (2); and inserted a new para. (1). Former para. (2) had read as follows: “(2) in accordance with such authority as may be delegated by the President pursuant to Executive order, chair such agency and interagency meetings as may be necessary to coordinate actions on pending issues to ensure proper policy coordination;”

Sec. 162(k)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), provided:

“(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.”

(2)¹¹⁰ maintain continuing liaison¹¹¹ with other executive branch agencies concerned with international communications and information policy and with the Federal Communications Commission, as appropriate;¹¹¹

(3) in accordance with such authority as may be delegated by the President pursuant to Executive order, supervise and coordinate the activities of any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;¹¹²

(4) coordinate the activities of, and assist as appropriate, interagency working level task forces and committees concerned with specific aspects of international communications and information policy;

(5) maintain liaison with the members and staffs of committees of the Congress concerned with international communications and information policy and provide testimony before such committees;

(6) maintain appropriate liaison with representatives of the private sector to keep informed of their interests and problems, meet with them, and provide such assistance as may be needed to ensure that matters of concern to the private sector are promptly considered by the Department or other executive branch agencies; and

(7) assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international communications and information policy issues.

SEC. 36.¹¹³ DEPARTMENT OF STATE REWARDS PROGRAM.

(a) ESTABLISHMENT.—

¹¹¹ Sec. 162(k)(1)(B)(v) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out “with the bureaus and offices of the Department of State and” following “liaison”, and inserted before the semicolon, “and with the Federal Communications Commission, as appropriate”.

Sec. 162(k)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), provided:

“(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.”

¹¹² Sec. 162(k)(1)(B)(vi) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out “the Senior Interagency Group on International Communications and Information Policy” and inserted in lieu thereof “any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;”. The amendment resulted in a double semicolon.

Sec. 162(k)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), provided:

“(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.”

¹¹³ 22 U.S.C. 2708. Sec. 102 of Public Law 98-533 (98 Stat. 2708) added original sec. 36. Sec. 2202 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-805), amended and restated sec. 36. Sec. 101 of Public Law 105-323 (112 Stat. 3029) also amended and restated sec. 36, enacting text identical to that enacted in sec. 2202 of Public Law 105-277 with the exception of sec. 36(e)(1). In that para., enacted by Public Law 105-323 raised the maximum amount of any reward to be paid under this section not to exceed \$5,000,000 from the level of \$2,000,000 enacted in Public Law 105-277.

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

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

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

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

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

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

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

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

(B) the killing or kidnapping of—

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

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

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

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

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

(c) COORDINATION.—

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

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

- (B) the publication of rewards;
 - (C) the offering of joint rewards with foreign governments;
 - (D) the receipt and analysis of data; and
 - (E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.
- (2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.
- (d) FUNDING.—
- (1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.
 - (2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed \$15,000,000.
 - (3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.
 - (4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.
- (e) LIMITATIONS AND CERTIFICATION.—
- (1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$5,000,000.
 - (2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.
 - (3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.
 - (4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.
 - (5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.
- (f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.
- (g) REPORTS.—

(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 36A.¹¹⁴ AWARD OF FOREIGN SERVICE STAR.

(a) AUTHORITY TO AWARD.—The President, upon the recommendation of the Secretary, may award a Foreign Service star to any member of the Foreign Service or any other civilian employee of the Government of the United States who, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death)—

(1) as the person was performing official duties;

(2) as the person was on the premises of a United States mission abroad; or

(3) by reason of the person's status as a United States Government employee.

(b) SELECTION CRITERIA.—The Secretary shall prescribe the procedures for identifying and considering persons eligible for award of a Foreign Service star and for selecting the persons to be recommended for the award.

(c) AWARD IN THE EVENT OF DEATH.—If a person selected for award of a Foreign Service star dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

(d) FORM OF AWARD.—The Secretary shall prescribe the design of the Foreign Service star. The award may not include a stipend or any other cash payment.

(e) FUNDING.—Any expenses incurred in awarding a person a Foreign Service star may be paid out of appropriations available at the time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.

¹¹⁴ 22 U.S.C. 2708a. Sec. 321 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added sec. 36A.

SPECIAL AGENTS

SEC. 37.¹¹⁵ (a) GENERAL AUTHORITY.—Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

- (1) conduct investigations concerning illegal passport or visa issuance or use;
- (2) For the purpose of conducting such investigation—
 - (A) obtain and execute search and arrest warrants,
 - (B)¹¹⁶ make arrests without warrant for any offense concerning passport or visa issuance or use of the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and
 - (C)¹¹⁶ obtain and serve subpoenas and summonses issued under the authority of the United States;
- (3) protect and perform protective functions directly related to maintaining the security and safety of—
 - (A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while the United States;
 - (B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;
 - (C) members of the immediate family of persons described in subparagraph (A) or (B);¹¹⁷
 - (D) foreign missions (as defined in section 202(a)(4) of this Act) and international organizations (as defined in section 209(b) of this Act), within the United States;
 - (E)¹¹⁷ a departing Secretary of State for a period of up to 180 days after the date of termination of that individual's incumbency as Secretary of State, on the basis of a threat assessment; and
 - (F)¹¹⁷ an individual who has been designated by the President to serve as Secretary of State, prior to that individual's appointment.
- (4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and
- (5)¹¹⁸ arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 , of title 18, United States Code—

¹¹⁵22 U.S.C. 2709. Sec. 125(a) of Public Law 99-93 (99 Stat. 415) inserted this text as a new sec. 37 and redesignated the previous sec. 37 as sec. 38.

Sec. 139(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), repealed subsec. (d) of this section, which had required "TRANSMISSION OF REGULATIONS TO CONGRESS.—The Secretary of State shall transmit the regulations prescribed under this section to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 20 days before the date on which such regulations take effect."

¹¹⁶Sec. 113(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), redesignated subpar. (B) as (C) and inserted a new subpar. (B).

¹¹⁷Sec. 406 of the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-97), as amended by Public Law 106-554, struck out "and" at the end of subpara. (C), and added new subparas. (E) and (F).

¹¹⁸Sec. 113(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), restated par. (5).

(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—

(i) has committed or is committing such violation; and

(ii) is in or is fleeing from the immediate area of such violation; and

(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.

(b) AGREEMENT WITH ATTORNEY GENERAL AND FIREARMS REGULATIONS.—

(1) AGREEMENT WITH ATTORNEY GENERAL.—The authority conferred by paragraphs (1), (2), (4), and (5) of subsection (a) shall be exercised subject to an agreement with the Attorney General and shall not be construed to affect the investigative authority of any other Federal law enforcement agency.

(2) FIREARMS REGULATIONS.—The Secretary of State shall prescribe regulations, which shall be approved by the Attorney General, with respect to the carrying and use of firearms by special agents under this section.

(c) SECRET SERVICE NOT AFFECTED.—Nothing in subsection (a)(3) shall be construed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service. The Secretary of State, the Attorney General, and the Secretary of the Treasury shall enter into an interagency agreement with respect to their law enforcement functions.

EXPENSES RELATING TO PARTICIPATION IN ARBITRATIONS OF CERTAIN DISPUTES

SEC. 38.¹¹⁹ (a) INTERNATIONAL AGREEMENTS.—The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

(b) CONTRACTS ABROAD.—The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations arising under contracts authorized by law for the performance of services or acquisition of property, real or personal, abroad.

(c)¹²⁰ PROCUREMENT OF SERVICES.—The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure per-

¹¹⁹22 U.S.C. 2710. This sec., comprising subsecs. (a) and (b), was added by sec. 128 of Public Law 99-93 (99 Stat. 419).

¹²⁰Subsecs. (c) and (d) were added by sec. 123 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392).

sonal and ¹²¹ other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

(d) ¹²⁰ INTERNATIONAL LITIGATION FUND.—

(1) ESTABLISHMENT.—In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the “ILF”). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

(2) REPROGRAMMING PROCEDURES.—Funds credited to the ILF shall be treated as a reprogramming of funds under section 34 and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings. This paragraph shall not apply to the transfer of funds under paragraph (3).

(3) TRANSFERS OF FUNDS.—Funds received by the Department of State from another agency of the United States Government or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) to meet costs of preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

(4) USE OF FUNDS.—Funds deposited in the ILF shall be available only for the purposes of paragraph (1).

COUNTERTERRORISM PROTECTION FUND

SEC. 39.¹²² (a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

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

¹²¹ Sec. 2212(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-812), inserted “personal and” before “other support services”.

¹²² 22 U.S.C. 2711. Sec. 39 was added by sec. 504(2) of Public Law 99-399 (100 Stat. 871).

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

AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES

SEC. 40.¹²³ (a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provisions of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

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

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

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

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

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

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

(e) DEFINITIONS.—

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

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

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

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

(f) VIOLATIONS.—

¹²³ 22 U.S.C. 2712. Sec. 40 was added by sec. 506(2) of Public Law 99-399 (100 Stat. 872).

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

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

(g) CONGRESSIONAL OVERSIGHT.—

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

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

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

PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION
AREAS OF THE DEPARTMENT OF STATE BUILDING

SEC. 41.¹²⁴ (a) IN GENERAL.—The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

(b) DISPOSITION OF HISTORIC AND ARTISTIC ITEMS.—

(1) ITEMS COVERED.—Articles of furniture, fixtures, and decorative objects of the reception areas (and similar articles, fixtures, and objects acquired by the Secretary of State), when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary in his or her official capacity and shall be subject to disposition solely in accordance with this subsection.

(2) SALE OR TRADE.—Whenever the Secretary of State determines that—

(A) any item covered by paragraph (1) is no longer needed for use or display in the reception areas, or

(B) in order to upgrade the reception areas, a better use of that article would be its sale or exchange,

¹²⁴ 22 U.S.C. 2713. Sec. 41 was added by sec. 126(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341).

the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of the Federal Property and Administrative Services Act of 1949. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.

(3) SMITHSONIAN INSTITUTION.—The Secretary of State may also lend items covered by paragraph (1), when not needed for use or display in the reception areas, to the Smithsonian Institution or a similar institution for care, repair, study, storage, or exhibition.

(c) DEFINITION.—For purposes of this section, the term “reception areas” means the areas of the Department of State Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State’s offices (seventh floor), the Deputy Secretary of State’s offices (seventh floor), and the seventh floor reception area.

DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS

SEC. 42.¹²⁵ (a) INELIGIBILITY FOR PASSPORT.—

(1) IN GENERAL.—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) PASSPORT REVOCATION.—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

(b) DRUG LAW OFFENSES.—

(1) FELONIES.—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) CERTAIN MISDEMEANORS.—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual’s first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) PERIOD OF INELIGIBILITY.—Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) EMERGENCY AND HUMANITARIAN EXCEPTIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in

¹²⁵ 22 U.S.C. 2714. Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690; 102 Stat. 4287) added sec. 42.

emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

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

(1) the term “controlled substance” has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term “Federal drug offense” means a violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the “Bank Secrecy Act”), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the “Money Laundering Act”), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term “felony” means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term “imprisoned” means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term “misdemeanor” means a criminal offense other than a felony;

(6) the term “State drug offense” means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term “State law” means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD
AFFECTING UNITED STATES CITIZENS

SEC. 43.¹²⁶ (a)¹²⁷ AUTHORITY.—In the case of a major disaster or incident abroad which affects the health and safety of citizens of the United States residing or traveling abroad, the Secretary of State shall provide prompt and thorough notification of all appropriate information concerning such disaster or incident and its effect on United States citizens to the next-of-kin of such individuals. Notification shall be provided through the most expeditious means available, including telephone communications, and shall include timely written notice. The Secretary, through the appropriate offices of the Department of State, shall act as a clearinghouse for up-to-date information for the next-of-kin and shall provide other services and assistance. Assistance shall include liaison with foreign governments and persons and with United State air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as disposition of personal estates pursuant to section 43B of this Act.¹²⁸

(b)¹²⁹ DEFINITIONS.—For purposes of this section and sections 43A and 43B, the term “consular officer” includes any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe.

SEC. 43A.¹³⁰ NOTIFICATION OF NEXT OF KIN; REPORTS OF DEATH.

(a) IN GENERAL.—Whenever a United States citizen or national dies abroad, a consular officer shall endeavor to notify, or assist the Secretary of State in notifying, the next of kin or legal guardian as soon as possible, except that, in the case of death of any Peace Corps volunteer (within the meaning of section 5(a) of the Peace

¹²⁶ 22 U.S.C. 2715. Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 23), redesignated the previous sec. 43 as sec. 44, and added a new sec. 43. Sec. 115(d) also provided the following:

“(d) DEVELOPMENT OF STANDARDIZED PROCEDURES.—

“(1) The Secretary of State shall enter into discussions with international air carriers and other appropriate entities to develop standardized procedures which will assist the Secretary in implementing the provisions of section 43 of the State Department Basic Authorities Act of 1956, as amended by subsection (a).

“(2) The Secretary of State shall consider the feasibility of establishing a toll-free telephone number to facilitate inquiries by the next-of-kin in cases of major disasters or incidents abroad which affect the health and safety of citizens of the United States residing or traveling abroad.

“(e) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which sets forth plans for the implementation of the amendment made by subsection (c) and the provisions of subsection (d)(1), together with the Secretary’s comments concerning the proposal under subsection (d)(2).”

¹²⁷ Sec. 235(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted “(a) Authority.—” before “In”.

¹²⁸ Sec. 235(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “disposition of personal effects” and inserted in lieu thereof “disposition of personal estates pursuant to section 43B of this Act”.

¹²⁹ Sec. 235(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added subsec. (b).

¹³⁰ 22 U.S.C. 2715b. Sec. 234(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added secs. 43A and 43B, effective six months after date of enactment.

Corps Act (22 U.S.C. 2504(a)), any member of the Armed Forces, any dependent of such a volunteer or member, or any Department of Defense employee, the consular officer shall assist the Peace Corps or the appropriate military authorities, as the case may be, in making such notifications.

(b) **REPORTS OF DEATH OR PRESUMPTIVE DEATH.**—The consular officer may, for any United States citizen who dies abroad—

(1) in the case of a finding of death by the appropriate local authorities, issue a report of death or of presumptive death; or

(2) in the absence of a finding of death by the appropriate local authorities, issue a report of presumptive death.

(c) **IMPLEMENTING REGULATIONS.**—The Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 43B.¹³¹ CONSERVATION AND DISPOSITION OF ESTATES.

(a) **CONSERVATION OF ESTATES ABROAD.**—

(1) **AUTHORITY TO ACT AS CONSERVATOR.**—Whenever a United States citizen or national dies abroad, a consular officer shall act as the provisional conservator of the portion of the decedent's estate located abroad and, subject to paragraphs (3), (4), and (5), shall—

(A) take possession of the personal effects of the decedent within his jurisdiction;

(B) inventory and appraise the personal effects of the decedent, sign the inventory, and annex thereto a certificate as to the accuracy of the inventory and appraised value of each article;

(C) when appropriate in the exercise of prudent administration, collect the debts due to the decedent in the officer's jurisdiction and pay from the estate the obligations owed by the decedent;

(D) sell or dispose of, as appropriate, in the exercise of prudent administration, all perishable items of property;

(E) sell, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, such additional items of property as necessary to provide funds sufficient to pay the decedent's debts and property taxes in the country of death, funeral expenses, and other expenses incident to the disposition of the estate;

(F) upon the expiration of the one-year period beginning on the date of death (or after such additional period as may be required for final settlement of the estate), if no claimant shall have appeared, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, sell or dispose of the residue of the personal estate, except as provided in subparagraph (G), in the same manner as United States Government-owned foreign excess property;

¹³¹ 22 U.S.C. 2715c. Added by sec. 234(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536).

(G) transmit to the custody of the Secretary of State in Washington, D.C. the proceeds of any sales, together with all financial instruments (including bonds, shares of stock, and notes of indebtedness), jewelry, heirlooms, and other articles of obvious sentimental value, to be held in trust for the legal claimant; and

(H) in the event that the decedent's estate includes an interest in real property located within the jurisdiction of the officer and such interest does not devolve by the applicable laws of intestate succession or otherwise, provide for title to the property to be conveyed to the Government of the United States unless the Secretary declines to accept such conveyance.

(2) **AUTHORITY TO ACT AS ADMINISTRATOR.**—Subject to paragraphs (3) and (4), a consular officer may act as administrator of an estate in exceptional circumstances if expressly authorized to do so by the Secretary of State.

(3) **EXCEPTIONS.**—The responsibilities described in paragraphs (1) and (2) may not be performed to the extent that the decedent has left or there is otherwise appointed, in the country where the death occurred or where the decedent was domiciled, a legal representative, partner in trade, or trustee appointed to take care of his personal estate. If the decedent's legal representative shall appear at any time prior to transmission of the estate to the Secretary and demand the proceeds and effects being held by the consular officer, the officer shall deliver them to the representative after having collected any prescribed fee for the services performed under this section.

(4) **ADDITIONAL REQUIREMENT.**—In addition to being subject to the limitations in paragraph (3), the responsibilities described in paragraphs (1) and (2) may not be performed unless—

(A) authorized by treaty provisions or permitted by the laws or authorities of the country wherein the death occurs, or the decedent is domiciled; or

(B) permitted by established usage in that country.

(5) **STATUTORY CONSTRUCTION.**—Nothing in this section supersedes or otherwise affects the authority of any military commander under title 10 of the United States Code with respect to the person or property of any decedent who died while under a military command or jurisdiction or the authority of the Peace Corps with respect to a Peace Corps volunteer or the volunteer's property.

(b) **DISPOSITION OF ESTATES BY THE SECRETARY OF STATE.**—

(1) **PERSONAL ESTATES.**—

(A) **IN GENERAL.**—After receipt of a personal estate pursuant to subsection (a), the Secretary may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

(B) DISPOSITION AS SURPLUS UNITED STATES PROPERTY.—If, upon the expiration of a period of 5 fiscal years beginning on October 1 after a consular officer takes possession of a personal estate under subsection (a), no legal claimant for such estate has appeared, title to the estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Department of State, and the Secretary shall dispose of the estate in the same manner as surplus United States Government-owned property is disposed or by such means as may be appropriate in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

(C) TRANSFER OF PROCEEDS.—The net cash estate after disposition as provided in subparagraph (B) shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

(2) REAL PROPERTY.—

(A) DESIGNATION AS EXCESS PROPERTY.—In the event that title to real property is conveyed to the Government of the United States pursuant to subsection (a)(1)(H) and is not required by the Department of State, such property shall be considered foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 et seq.).

(B) TREATMENT AS GIFT.—In the event that the Department requires such property, the Secretary of State shall treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 25 of this Act and section 9(a)(3) of the Foreign Service Buildings Act of 1926.

(c) LOSSES IN CONNECTION WITH THE CONSERVATION OF ESTATES.—

(1) AUTHORITY TO COMPENSATE.—The Secretary is authorized to compensate the estate of any United States citizen who has died overseas for property—

(A) the conservation of which has been undertaken under section 43 or subsection (a) of this section; and

(B) that has been lost, stolen, or destroyed while in the custody of officers or employees of the Department of State.

(2) LIABILITY.—

(A) EXCLUSION OF PERSONAL LIABILITY AFTER PROVISION OF COMPENSATION.—Any such compensation shall be in lieu of personal liability of officers or employees of the Department of State.

(B) LIABILITY TO THE DEPARTMENT.—An officer or employee of the Department of State may be liable to the Department of State to the extent of any compensation provided under paragraph (1).

(C) DETERMINATIONS OF LIABILITY.—The liability of any officer or employee of the Department of State to the Department for any payment made under subsection (a) shall be determined pursuant to the Department's procedures for determining accountability for United States Government property.

(d) REGULATIONS.—The Secretary of State may prescribe such regulations as may be necessary to carry out this section.

DEBT COLLECTION

SEC. 44.¹³² (a) CONTRACT AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary of State shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 90 days.

(2) Each contract entered into under this section shall provide that the person with whom the Secretary enters into such contract shall submit to the Secretary at least once each 180 days a status report on the success of the person in collecting debts. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent that such section is not inconsistent with this subsection.

(b) DISCLOSURE OF DELINQUENT DEBT TO CREDIT REPORTING AGENCIES.—The Secretary of State shall, to the extent otherwise allowed by law, disclose to those credit reporting agencies to which the Secretary reports loan activity information concerning any debt of more than \$100 owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 31 days.

DEFENSE TRADE CONTROLS REGISTRATION FEES¹³³

SEC. 45.¹³³ For each fiscal year, 100 percent¹³⁴ of the registration fees collected by the Office of Defense Trade Controls¹³⁵ of the Department of State shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited

¹³²22 U.S.C. 2716. Sec. 117 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), redesignated sec. 44 as sec. 45 and added a new sec. 44.

¹³³22 U.S.C. 2717. Sec. 118 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), redesignated sec. 45 as sec. 46, and added a new sec. 45.

Sec. 126(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out "Munitions Control Registration Fees" and inserted in lieu thereof "Defense Trade Controls Registration Fees" for the section heading and for subsec. (a) heading. Sec. 1513(b)(1)(B) and (b)(2) of Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2174) subsequently struck out "(a) DEFENSE TRADE CONTROLS REGISTRATION FEES.—" and struck out subsec. (b), which had stated terms of Budget Act compliance.

¹³⁴Sec. 1513(b)(1)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2174) struck out "\$700,000" and inserted in lieu thereof "100 percent". Previously, sec. 126(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659) struck out "\$500,000" and inserted in lieu thereof "\$700,000".

¹³⁵Sec. 126(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), further amended this section: (A) by striking out "Munitions Control" and inserting in lieu thereof "Defense Trade Controls" throughout subsec. (a); and (B) by striking "munitions control" and inserting in lieu thereof "defense trade controls" in each place it appeared in subsec. (a).

to that account shall be available only for payment of expenses incurred for—

(1) contract personnel to assist in the evaluation of defense trade controls¹³⁵ license applications, reduction in processing time for license applications, and improved monitoring of compliance with the terms of licenses;¹³⁶

(2) the automation of defense trade control¹³⁵ functions and the processing of defense trade control¹³⁵ license applications, including the development, procurement, and utilization of computer equipment and related software; and¹³⁶

(3)¹³⁶ the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.

FEEES RECEIVED FOR USE OF BLAIR HOUSE

SEC. 46.¹³⁷ (a) USE OF FEES.—Notwithstanding any other provision of law,¹³⁸ funds received by the Department of State in connection with the use of Blair House (including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities) may be credited to the appropriate appropriation account of the Department of State which is currently available. Such funds shall be available only for maintenance and other expenses of Blair House.

(b) COMPLIANCE WITH THE BUDGET ACT.—The authority of this section may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

GRANTS FOR TRAINING AND EDUCATION IN INTERNATIONAL AFFAIRS

SEC. 47.¹³⁹ The Secretary of State may make grants to post-secondary educational institutions or students for the purpose of increasing the level of knowledge and awareness of and interest in employment with the Foreign Service, consistent with section 105 of the Foreign Service Act of 1980. To the extent possible, the Secretary shall give special emphasis to promoting such knowledge and awareness of, and interest in employment with, the Foreign Service among minority students. Any grants awarded shall be made pursuant to regulations to be established by the Secretary of State, which shall provide for a limit on the size of any specific

¹³⁶Sec. 2203 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808) amended sec. 45(a), understood here to apply to sec. 45, as follows: (1) struck out “and” at the end of para. (1); (2) replaced a period at the end of para. (2) with “; and”; and (3) added a new para. (3).

¹³⁷22 U.S.C. 2718. Sec. 119 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 26), redesignated sec. 46 as 47 and added a new sec. 46.

¹³⁸Sec. 123 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out “for the fiscal years 1990 and 1991.”

¹³⁹22 U.S.C. 2719. Sec. 150 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 42), redesignated sec. 47 as sec. 48 and added a new sec. 47.

Sec. 48 had read: “This Act may be cited as the State Department Basic Authorities Act of 1956.” Sec. 111 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 654), struck out sec. 48 and restated text in the enacting clause.

grant and, regarding any grant to individuals, shall ensure that no grant recipient receives an amount of grants from one or more Federal programs which in the aggregate would exceed the cost of his or her education, and shall require satisfactory educational progress by grantees as a condition of eligibility for continued receipt of grant funds.

CLOSING OF CONSULAR AND DIPLOMATIC POSTS ABROAD

SEC. 48.¹⁴⁰ (a) PROHIBITED USES OF FUNDS.—Except as provided under subsection (d) or in accordance with the procedures under subsections (b) and (c) of this section—

(1) no funds authorized to be appropriated to the Department of State shall be available to pay any expense related to the closing of any United States consular or diplomatic post abroad; and

(2) no funds authorized to be appropriated to the Department of State may be used to pay for any expense related to the Bureau of Administration of the Department of State (or to carrying out any of its functions) if any United States consular or diplomatic post is closed.

(b) POST CLOSING NOTIFICATION.—Not less than 45 days before the closing of any United States consular or diplomatic post abroad, the Secretary of State shall notify the Committee on Foreign Affairs¹⁴¹ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) REPROGRAMMING TREATMENT.—Amounts made available to pay any expense related to the closing of a consular or diplomatic post abroad shall be treated as a reprogramming of funds under section 34 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

(d) EXCEPTIONS.—The provisions of this section do not apply with respect to—

¹⁴⁰22 U.S.C. 2651 note. A short title was originally added as sec. 33 by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2157). Subsequently, sec. 117 of Public Law 97-241 (96 Stat. 279), sec. 124 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1025) and sec. 102 of Public Law 98-533 (98 Stat. 2708) redesignated it as secs. 34, 36, and 37, respectively. Sec. 125(a) of Public Law 99-93 (99 Stat. 415) redesignated this section as sec. 38, and sec. 128 of the same law again redesignated it as sec. 39. Sec. 504(1) of Public Law 99-399 redesignated it as sec. 41 and sec. 126 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341) redesignated it as sec. 42. Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690; 102 Stat. 4287) redesignated it as sec. 43 and inserted a new sec. 42. Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), redesignated it as sec. 44 and added a new sec. 43. Sec. 117 of that Act further redesignated sec. 44 as sec. 45, and added a new sec. 44. Sec. 118 of that Act further redesignated sec. 45 as sec. 46, and added a new sec. 45. Sec. 119 of that Act further redesignated sec. 46 as sec. 47, and added a new sec. 46. Sec. 150 of that Act further redesignated sec. 47 as sec. 48, and added a new sec. 47.

Sec. 111 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 654), finally struck out sec. 48, and made the short title part of the enacting clause.

The current sec. 48, relating to consular and diplomatic posts abroad, was added by sec. 112 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 654).

¹⁴¹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(1) any post closed because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located; or

(2) any post closed because there is a real and present threat to United States diplomatic or consular personnel in the city where the post is located, and a travel advisory warning against travel by United States citizens to that city has been issued by the Department of State.

(e) DEFINITION.—As used in this section, the term “consular or diplomatic post” does not include a post to which only personnel of agencies other than the Department of State are assigned.

IMPERMISSIBLE BASIS FOR DENIAL OF PASSPORTS

SEC. 49.¹⁴² A passport may not be denied issuance, revoked, restricted, or otherwise limited because of any speech, activity, belief, affiliation, or membership, within or outside the United States, which, if held or conducted within the United States, would be protected by the first amendment to the Constitution of the United States.

INTERNATIONAL MEETINGS

SEC. 50.¹⁴³ (a) AUTHORITY TO PAY EXPENSES.—If the United States Government hosts an international meeting or conference in the United States, the Secretary of State is authorized to pay all reasonable expenses of such meeting or conference. Such expenses may include rental of quarters (by contract or otherwise) and personal services.

(b) RETENTION OF REIMBURSEMENTS.—To the extent provided in an appropriation Act, transfers of funds or other reimbursements for payments under subsection (a) are authorized to be retained and credited to the appropriate appropriation account of the Department of State which is available.

DENIAL OF VISAS¹⁴⁴

SEC. 51.¹⁴⁴ (a) REPORT TO CONGRESS.—The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report shall set forth the name and nationality of each such person and a factual statement of the basis for such denial.

¹⁴² 22 U.S.C. 2721. Sec. 113 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), added sec. 49.

¹⁴³ 22 U.S.C. 2722. Sec. 119 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 658), added sec. 50.

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

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

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

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

(c) **APPROPRIATE COMMITTEES.**—For the purposes of this section the term “appropriate committees of the Congress” means the Committee on the Judiciary and the Committee on Foreign Affairs¹⁴⁵ of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

SEC. 52.¹⁴⁶ FEES FOR COMMERCIAL SERVICES.

(a) **AUTHORITY TO CHARGE FEE.**—(1) Subject to paragraph (2), the Secretary of State is authorized to charge a fee to cover the actual or estimated cost of providing any person, firm or organization (other than agencies of the United States Government) with commercial services at posts abroad on matters within the authority of the Department of State.

(2) The authority of this section may be exercised only in countries where the Department of Commerce does not perform commercial services for which it collects fees.

(b) **USE OF FEES.**—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing commercial services. Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.¹⁴⁷

SEC. 53.¹⁴⁸ FEES FOR USE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

The Secretary is authorized to charge a fee for use of the National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.

¹⁴⁵Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁴⁶22 U.S.C. 2724. Sec. 136 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), added sec. 52. The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

¹⁴⁷Sec. 2204 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808), added this sentence.

¹⁴⁸22 U.S.C. 2725. Sec. 2205(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-809), added sec. 53. Sec. 2205(c) of that Act provided the following:

“(c) **REPORTING ON PILOT PROGRAM.**—Two years after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees containing—

“(1) the number of persons who have taken advantage of the pilot program established under subsections (e) and (f) of section 701 of the Foreign Service Act of 1980 and section 53 of the State Department Basic Authorities Act of 1956, as added by this section;

“(2) the business or government affiliation of such persons;

“(3) the amount of fees collected; and

“(4) the impact of the program on the primary mission of the National Foreign Affairs Training Center.”

SEC. 54.¹⁴⁹ FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.

The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.

SEC. 55.¹⁵⁰ ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.

The Secretary shall include in the annual Congressional Presentation Document and the Budget in Brief a detailed accounting of the total collections received by the Department of State from all sources, including fee collections. Reporting on total collections shall also cover collections from the preceding fiscal year and the projected expenditures from all collections accounts.

SEC. 56.¹⁵¹ CRIMES COMMITTED BY DIPLOMATS.**(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—**

(1) REPORT TO CONGRESS.—180 days after the date of enactment, and annually thereafter, the Secretary of State shall prepare and submit to the Congress, a report concerning diplomatic immunity entitled “Report on Cases Involving Diplomatic Immunity”.

(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys

¹⁴⁹ 22 U.S.C. 2726. Sec. 2206 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added sec. 54.

¹⁵⁰ 22 U.S.C. 2727. Sec. 2207 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added sec. 55.

¹⁵¹ 22 U.S.C. 2728. Sec. 2217 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-815), added sec. 56.

full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term “serious criminal offense” means—

(A) any felony under Federal, State, or local law;

(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

(D)(i) driving under the influence of alcohol or drugs;

(ii) reckless driving; or

(iii) driving while intoxicated.

(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

TITLE II—AUTHORITIES RELATING TO THE REGULATION
OF FOREIGN MISSIONS¹⁵¹

DECLARATION OF FINDINGS AND POLICY

SEC. 201.¹⁵² (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

(b) The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

(c) The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission as well as matters relating to the protection of the interests of the United States.¹⁵³

DEFINITIONS

SEC. 202.¹⁵⁴ (a)¹⁵⁵ For purposes of this title—

(1) “benefit” (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

- (A) real property by purchase, lease, exchange, construction, or otherwise,
- (B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,
- (C) supplies, maintenance, and transportation,
- (D) locally engaged staff on a temporary or regular basis,
- (E) travel and related services,
- (F) protective services, and

¹⁵¹ Popularly referred to as the “Foreign Missions Act”. Title II was added by sec. 202(b) of Public Law 97-241 (96 Stat. 283), effective October 1, 1982.

The Secretary of State delegated functions authorized under this title—except those under secs. 203(4), 204(b)(5), 204(f), 209, 209A, and 214—to the Director of the Office of Foreign Missions (Department of State Public Notice 2086; sec. 14 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁵² 22 U.S.C. 4301. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 201, effective October 1, 1982.

¹⁵³ Sec. 127(a) of Public Law 99-93 (99 Stat. 418) added the words “as well as matters relating to the protection of the interests of the United States”.

¹⁵⁴ 22 U.S.C. 4302.

¹⁵⁵ Sec. 162(o)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out para. (3) under this subsec., which had defined “Director” to mean “the Director of the Office of Foreign Missions established pursuant to section 203(a)”; and redesignated paras. (4) through (8) as paras. (3) through (7).

(G)¹⁵⁶ financial and currency exchange services, and includes such other benefits as the Secretary may designate;

(2) “chancery” means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

(3)¹⁵⁷ “foreign mission” means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

(A) a foreign government, or

(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;

(4) “real property” includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

(5) “Secretary” means the Secretary of State;

(6) “sending State” means the foreign government, territory, or political entity represented by a foreign mission; and

(7) “United States” means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary.

AUTHORITIES OF THE SECRETARY OF STATE

SEC. 203.¹⁵⁸ The Secretary shall carry out the following functions:

(1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled.

¹⁵⁶ Subparagraph (G) was added by sec. 153(e) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1353).

¹⁵⁷ This paragraph was substantively amended and restated by sec. 701 of Public Law 99-569 (100 Stat. 3190); and was previously amended by sec. 127(b) of Public Law 99-93 (99 Stat. 418).

In Public Notice 2035 of June 21, 1994 (59 F.R. 37121), the Department of State determined that the Palestine Liberation Organization representation in the United States is a “foreign mission” within the meaning of section 202(a)(3), and that the provisions of section 205 of this Act apply to the acquisition or disposition of real property by or on behalf of the PLO Office.

¹⁵⁸ 22 U.S.C. 4303. Sec. 203, originally providing for the establishment of the Office of Foreign Missions, was amended and restated by sec. 162(o)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409).

Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added the original sec. 203, effective October 1, 1982.

(2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204.

(3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this Act.

(4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this Act. If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.

(5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

PROVISION OF BENEFITS

SEC. 204.¹⁵⁹ (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Secretary¹⁶⁰ on such terms and conditions as the Secretary may approve.

(b) If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

(1) to facilitate relations between the United States and a sending State,

(2) to protect the interests of the United States,

(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad,¹⁶¹

(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State, or¹⁶¹

(5)¹⁶¹ subject to subsection (f), to implement an exchange of property between the Government of the United States and the government of a foreign country, such property to be used by each government in the respective receiving state for, or in connection with, diplomatic or consular establishments,

then the Secretary may require a foreign mission (A) to obtain benefits from or through the Secretary¹⁶⁰ on such terms and conditions as the Secretary may approve, or (B) to forego the acceptance, use, or relations of any benefit or¹⁶² to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

¹⁵⁹ 22 U.S.C. 4304. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 204, effective October 1, 1982.

¹⁶⁰ Sec. 162(o)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" throughout subssecs. (a)-(c) of sec. 204, and inserted in lieu thereof "Secretary".

¹⁶¹ Sec. 116(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 24), struck out "or" at the end of par. (3); inserted "or" at the end of par. (4); and added a new par. (5).

¹⁶² Sec. 127(c) of Public Law 99-93 (99 Stat. 418) inserted "to forego the acceptance, use, or relations of any benefit or" after "(B)".

(c) Terms and conditions established by the Secretary under this section may include—

(1) a requirement to pay to the Secretary¹⁶⁰ a surcharge or fee, and

(2) a waiver by a foreign mission or any assignee of or person deriving rights from a foreign mission of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title.

(d) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate any¹⁶³ officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

(e) Nothing in this title¹⁶⁴ shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

(f)¹⁶⁵ Upon a determination in each specific case by the Secretary of State or the Secretary's designee that the purpose of the Foreign Service Buildings Act, 1926, can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5), the Secretary of State may transfer funds made available under the heading "Acquisition and Maintenance of Buildings Abroad" (including funds held in the Foreign Service Buildings Fund) for such purpose to the Working Capital Fund, as provided in section 208(h)(1). Except for funds that may be provided by a foreign government for the purchase of property, only funds transferred under the preceding sentence may be used for the purposes of subsection (b)(5).

(2) The Secretary of State may acquire property in the United States for the purposes of subsection (b)(5) only in the context of a specific reciprocal agreement with a specified foreign government. Property acquired by the United States in the foreign country through such an exchange shall benefit the United States at least to the same extent as the property acquired in the United States benefits the foreign government.

(3) The Secretary of State shall prescribe regulations for the implementation of any in-kind exchange of properties pursuant to subsection (b)(5).

(4) At least 15 days before entering into any reciprocal agreement for the exchange of property with another foreign govern-

¹⁶³Sec. 162(o)(3)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), as amended, struck out "the Director or any other" and inserted in lieu thereof "any".

¹⁶⁴Sec. 126(b) of Public Law 99-93 (99 Stat. 418) inserted "title" in lieu of "section", effective October 1, 1985.

¹⁶⁵Sec. 116(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 24), added subsec. (f).

ment, the Secretary of State shall notify the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives¹⁶⁶ and the Committee on Foreign Relations of the Senate.

(5)(A) Proceeds from the disposition of properties acquired pursuant to this subsection shall be credited to the Foreign Service Buildings Fund (referred to in section 9 of the Foreign Service Buildings Act, 1926).

(B) The authority to spend proceeds received under subparagraph (A) may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

ENFORCEMENT OF COMPLIANCE WITH LIABILITY INSURANCE
REQUIREMENTS

SEC. 204A.¹⁶⁷ (a)(1) The head of a foreign mission shall notify promptly the Secretary¹⁶⁸ of the lapse or termination of any liability insurance coverage held by a member of the mission, by a member of the family of such member, or by an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946.

(2) Not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Secretary¹⁶⁸ a report including a list of motor vehicles, vessels, and aircraft registered in the United States by members of the mission, members of the families of such members, individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, and by the mission itself. Such list shall set forth for each such motor vehicle, vessel, or aircraft—

- (A) the jurisdiction in which it is registered;
- (B) the name of insured;
- (C) the name of the insurance company;
- (D) the insurance policy number and the extent of insurance coverage; and
- (E) such other information as the Secretary¹⁶⁸ may prescribe.

(b) Whenever the Secretary¹⁶⁸ finds that a member of a foreign mission, a member of the family of such member, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946—

- (1) is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States,
- (2) is not covered by liability insurance, and
- (3) has not satisfied a court-rendered judgment against him or is not legally liable,

¹⁶⁶Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(9) of that Act provided that references to the Committee on Public Works and Transportation shall be treated as referring to the Committee on Transportation and Infrastructure.

¹⁶⁷22 U.S.C. 4304a. Sec. 603 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1043) added sec. 204A. See also sec. 6 of the Diplomatic Relations Act for additional text concerning requirements for liability insurance.

¹⁶⁸Sec. 162(o)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" at each place it appeared in sec. 204A, and inserted in lieu thereof "Secretary".

the Secretary¹⁶⁸ shall impose a surcharge or fee on the foreign mission of which such member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

(c) For purposes of this section—

(1) the term “head of a foreign mission” has the same meaning as is ascribed to the term “head of a mission” in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227); and

(2) the terms “members of a mission” and “family” have the same meanings as is ascribed to them by paragraphs (1) and (2) of section 2 of the Diplomatic Relations Act (22 U.S.C. 254a).

SEC. 204B.¹⁶⁹ CRIMES COMMITTED BY DIPLOMATS.

(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

(1) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit to the Congress, annually, a report concerning diplomatic immunity entitled “Report on Cases Involving Diplomatic Immunity”.

(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from

¹⁶⁹ 22 U.S.C. 4304b. Sec. 1 of Public Law 105-375 (112 Stat. 3385) added sec. 204B.

the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term “serious criminal offense” means—

(A) any felony under Federal, State, or local law;

(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

(D)(i) driving under the influence of alcohol or drugs;

(ii) reckless driving; or

(iii) driving while intoxicated.

(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

PROPERTY OF FOREIGN MISSIONS

SEC. 205.¹⁷⁰ (a)(1) The Secretary shall require any foreign mission, including any mission to an international organization (as defined in section 209(b)(2)), to notify the Secretary¹⁷¹ prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. The foreign mis-

¹⁷⁰ 22 U.S.C. 4305. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 205, effective October 1, 1982. Subsequently, Sec. 127(e) of Public Law 99-93 (99 Stat. 418) amended sec. 205(a)(1) by: (1) in the first sentence, by striking out “may” and inserting in lieu thereof “shall”; (2) in the first sentence, by inserting “, including any mission to an international organization (as defined in section 209(b)(2)),” after “foreign mission”; and (3) in the second sentence, by striking out “If such a notification is required, the” and inserting in lieu thereof “The”.

¹⁷¹ Sec. 162(o)(5)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out “Director” and inserted in lieu thereof “Secretary”.

sion (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

(A) only after the expiration of the 60-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

(2) For purposes of this section, “acquisition” includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by a foreign mission.

(b) The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

(1) not to have been acquired in accordance with this section;

(2) to exceed limitations placed on real property available to a United States mission in the sending State; or

(3)¹⁷² where otherwise necessary to protect the interests of the United States.

(c) If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

(2) may¹⁷³ dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

(d)¹⁷⁴ (1) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country

¹⁷² Sec. 127(d)(3) of Public Law 99-93 (99 Stat. 418) added paragraph (3).

¹⁷³ Sec. 162(o)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out “authorize the Director to” after “may”.

¹⁷⁴ Subsec. (d) was added by sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1356).

described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

(4) For the purposes of this subsection, the term 'foreign country' means—

(A) any country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961;

(B) any country determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, to be a country which has repeatedly provided support for acts of international terrorism; and

(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

(5) As used in this section, the term 'substantially improve' shall not be construed to prevent the establishment of a foreign mission by a country which, on the date of enactment of this section—

(A) does not have a mission in the United States, or

(B) with respect to a city in the United States, did not maintain a mission in that city.

LOCATION OF FOREIGN MISSIONS IN THE DISTRICT OF COLUMBIA

SEC. 206.¹⁷⁵ (a) The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

(b)(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

(2) A chancery shall also be permitted to locate—

(A) in any area which is zoned medium-high or high density residential, and

(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

(c)(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2), or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon

¹⁷⁵ 22 U.S.C. 4306. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 206, effective October 1, 1982.

any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

(3) A final determination concerning the location, replacement, or expansion of a chancery shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this title.

(d) Any determination concerning the location of a chancery under subsection (b)(2), or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(5) The municipal interest, as determined by the Mayor of the District of Columbia.

(6) The Federal interest, as determined by the Secretary.

(e)(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d)) and shall reflect the policy of this title.

(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

(f) Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

(g) The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in

a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

(h) Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 205, by any other agency or official is not required—

(1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before the effective date of this section; or

(2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on the effective date of this section.

(i)(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

(A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and

(B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

(j) Provisions of law (other than this title) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

PREEMPTION

SEC. 207.¹⁷⁶ Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this title. Nothing in section 202, 203, 204, or 205 may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

GENERAL PROVISIONS

SEC. 208.¹⁷⁷ (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

¹⁷⁶ 22 U.S.C. 4307. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 207, effective October 1, 1982.

¹⁷⁷ 22 U.S.C. 4308. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 208, effective October 1, 1982.

(b) Compliance with any regulation, instruction, or direction issued by the Secretary under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued by the Secretary under this title.

(c) For purposes of administering this title—

(1) the Secretary may accept details and assignments of employees of Federal agencies to the Department of State¹⁷⁸ on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

(2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5, United States Code, without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

(d) Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Secretary¹⁷⁹ shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed \$10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this title.

(e) The head of any Federal agency may, for purposes of this title—

(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Department of State¹⁷⁸ (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

(2) acquire and accept services from the Department of State,¹⁷⁸ including (whenever the Secretary determines it to be

¹⁷⁸Sec. 162(o)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Office of Foreign Missions" and inserted in lieu thereof "Department of State" at each place it appeared in subsecs. (c), (e), and (f) of sec. 208.

¹⁷⁹Sec. 162(o)(6)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" and inserted in lieu thereof "Secretary".

in furtherance of the purposes of this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

(f) Assets of or under the control of the Department of State,¹⁷⁸ wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

(g) Except as otherwise provided, any determination required under this title shall be committed to the discretion of the Secretary.

(h)(1) In order to implement this title, the Secretary may transfer to the working capital fund established by section 13 of this Act such amounts available to the Department of State as may be necessary.

(2) All revenues, including proceeds from gifts and donations, received by the¹⁸⁰ Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

(3) Only amounts transferred or credited to the working capital fund established by section 13 of this Act may be used in carrying out the functions of the Secretary or the Director under this title.

APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND
OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

SEC. 209.¹⁸¹ (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

(b) For purposes of this section, "international organization" means—

(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f-2) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; and

(2) an official mission (other than a United States mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission.

UNITED STATES RESPONSIBILITIES FOR EMPLOYEES OF THE UNITED
NATIONS

SEC. 209A.¹⁸² (a) FINDINGS.—The Congress finds that—

¹⁸⁰Sec. 162(o)(6)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director or the" at this point.

¹⁸¹22 U.S.C. 4309. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 209, effective October 1, 1982.

¹⁸²22 U.S.C. 4309a. Sec. 141 of Public Law 99-93 (99 Stat. 423) added sec. 209A.

(1) pursuant to the Agreement Between the United States and the United Nations Regarding the Headquarters of the United Nations (authorized by Public Law 80-357 (22 U.S.C. 287 note)), the United States has accepted—

(A) the obligation to permit and to facilitate the right of individuals, who are employed by or are authorized by the United Nations to conduct official business in connection with that organization or its agencies, to enter into and exit from the United States for purposes of conducting official activities within the United Nations Headquarters District, subject to regulation as to points of entry and departure; and

(B) the implied obligation to permit and to facilitate the acquisition of facilities in order to conduct such activities within or in proximity to the United Nations Headquarters District, subject to reasonable regulation including regulation of the location and size of such facilities; and

(2) taking into account paragraph (1) and consistent with the obligation of the United States to facilitate the functioning of the United Nations, the United States has no additional obligation to permit the conduct of any other activities, including nonofficial activities, by such individuals outside of the United Nations Headquarters District.

(b) ¹⁸³ ACTIVITIES OF UNITED NATIONS EMPLOYEES.—(1) The conduct of any activities, or the acquisition of any benefits (as defined in section 201(a)(1) of this title), outside the United Nations Headquarters District by any individual employed by, or authorized by the United Nations to conduct official business in connection with that organization or its agencies, or by any person or agency acting on behalf thereof, may be permitted or denied or subject to reasonable regulation, as determined to be in the best interest of the United States and pursuant to this title.

(c) REPORTS.—The Secretary shall report to the Congress—

(1) not later than 30 days after the date of the enactment of this section, on the plans of the Secretary for implementing this section; and

(2) not later than 6 months thereafter, on the actions taken pursuant to those plans.

(d) UNITED STATES NATIONALS.—This section shall not apply with respect to any United States national.

(e) DEFINITIONS.—For purposes of this section, the term “United Nations Headquarters District” means the area within the United States which is agreed to by the United Nations and the United States to constitute such a district, together with such other areas as the Secretary of State may approve from time to time in order to permit effective functioning of the United Nations or missions to the United Nations.

¹⁸³ Sec. 139(26) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 399), repealed par. (2) of subsec. (b). It had provided: “(2) The Secretary shall apply to those employees of the United Nations Secretariat who are nationals of a foreign country or members of a foreign mission all terms, limitations, restrictions, and conditions which are applicable pursuant to this title to the members of that country’s mission or of any other mission to the United Nations unless the Secretary determines and reports to the Congress that national security and foreign policy circumstances require that this paragraph be waived in specific circumstances.”

PRIVILEGES AND IMMUNITIES

SEC. 210.¹⁸⁴ Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

ENFORCEMENT

SEC. 211.¹⁸⁵ (a) It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this title, including any action for injunctive or other equitable relief.

(b) Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this title.

PRESIDENTIAL GUIDELINES

SEC. 212.¹⁸⁶ The authorities granted to the Secretary pursuant to the provisions of this title shall be exercised in accordance with procedures and guidelines approved by the President.

SEVERABILITY

SEC. 213.¹⁸⁷ If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.

EXTRAORDINARY PROTECTIVE SERVICES

SEC. 214.¹⁸⁸ (a) GENERAL AUTHORITY.—The Secretary may provide extraordinary protective services for foreign missions directly,

¹⁸⁴ 22 U.S.C. 4310. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 210, effective October 1, 1982.

¹⁸⁵ 22 U.S.C. 4311. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 211, effective October 1, 1982.

¹⁸⁶ 22 U.S.C. 4312. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 212, effective October 1, 1982.

¹⁸⁷ 22 U.S.C. 4313. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 213, effective October 1, 1982.

¹⁸⁸ 22 U.S.C. 4314. Sec. 214 was added by sec. 126(a) of Public Law 99-93 (99 Stat. 417), effective October 1, 1985.

The Secretary of State delegated functions authorized under this section to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

by contract, or through State or local authority to the extent deemed necessary by the Secretary in carrying out this title, except that the Secretary may not provide under this section any protective services for which authority exists to provide such services under sections 202(7) and 208 of title 3, United States Code.

(b) REQUIREMENT OF EXTRAORDINARY CIRCUMSTANCES.—The Secretary may provide funds to a State or local authority for protective services under this section only if the Secretary has determined that a threat of violence, or other circumstances, exists which requires extraordinary security measures which exceed those which local law enforcement agencies can reasonably be expected to take.

(d) RESTRICTIONS ON USE OF FUNDS.—Of the funds made available for obligation under this section in any fiscal year—

(1) not more than 20 percent may be obligated for protective services within any single State during that year; and

(2) not less than 15 percent shall be retained as a reserve for protective services provided directly by the Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section.

The limitations on funds available for obligation in this subsection shall not apply to unobligated funds during the final quarter of any fiscal year.

(e) PERIOD OF AGREEMENT WITH STATE OR LOCAL AUTHORITY.—Any agreement with a State or local authority for the provision of protective services under this section shall be for a period of not to exceed 90 days in any calendar year, but such agreements may be renewed after review by the Secretary.

(f) REQUIREMENT FOR APPROPRIATIONS.—Contracts may be entered into in carrying out this section only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) WORKING CAPITAL FUND.—Amounts used to carry out this section shall not be subject to section 208(h).

USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS
STATUS AS A FOREIGN MISSION

SEC. 215.¹⁸⁹ (a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the

“PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

“For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$15,467,000, to remain available until September 30, 2002: *Provided*, That, notwithstanding the limitations of 3 U.S.C. 202(10) concerning 20 or more consulates, of the amount made available under this heading, \$5,000,000 shall be available only for the reimbursement of costs incurred by the City of Seattle, Washington.”

Sec. 139(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), repealed subsec. (c) of this section, which had provided: “(c) CONSULTATION WITH CONGRESS BEFORE OBLIGATION OF FUNDS.—Funds may be obligated under this section only after regulations to implement this section have been issued by the Secretary after consultation with appropriate committees of the Congress.”

¹⁸⁹22 U.S.C. 4315. Sec. 215 was added by sec. 128(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1343). Sec. 128(b) of the same Act established the effective date of sec. 215 as follows:

“(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

“(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

Continued

use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

(b) TEMPORARY LODGING.—For the purposes of this section, the term “residence” does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs¹⁹⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

(e) DEFINITIONS.—For the purposes of this section—

(1) the term “foreign mission” includes any international organization as defined in section 209(b); and

(2) the term “unaffiliated alien” means, with respect to a foreign country, an alien who—

(A) is admitted to the United States as a nonimmigrant, and

(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS

SEC. 216.¹⁹¹ (a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel

¹⁹⁰“(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).”

¹⁹¹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁹²22 U.S.C. 4316. Sec. 216 was added by sec. 162(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1357). Sec. 162(b) of the same Act made subsec. (a) of sec. 216 effective 90 days after enactment.

Sec. 139(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), repealed subsec. (d) of this section, which had provided: “(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.”

Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

* * *

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

while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

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

(1) the term “generally applicable restrictions” means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.¹⁹²

(2) the term “international organization” means an organization described in section 209(b)(1); and

(3) the term “personnel” includes—

(A) officers, employees, and any other staff member, and

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.

TITLE III—DISPOSITION OF PERSONAL PROPERTY ABROAD¹⁹³

DEFINITIONS

SEC. 301.¹⁹⁴ For purposes of this title, the following terms have the following meanings:

¹⁹² For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

¹⁹³ As enrolled. Should end with a semicolon.

¹⁹⁴ Title III was added by sec. 186(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366).

¹⁹⁴ 22 U.S.C. 4341. Sec. 186(b) of Public Law 100-204 (101 Stat. 1366) made this section effective 180 days after enactment.

(1) The term “employee” means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) and who is—

(A) an employee as defined by section 2105 of title 5, United States Code;

(B) an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(C) a member of a uniformed service who is not under the command of an area military commander; or

(D) an expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

(2) The term “contractor” means—

(A) an individual employed by personal services contract pursuant to section 2(c) of this Act (22 U.S.C. 2669(c)), section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 303;

but does not include a contractor with or under the supervision of an area military commander.

(3) The term “charitable contribution” means a contribution or gift as defined in section 170(c) of the Internal Revenue Code of 1986, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 303.

(4) The term “chief of mission” has the meaning given such term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

(5) The term “foreign country” means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories or possessions of the United States.

(6) The term “personal property” means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 303.

(7) The term “profit” means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this title, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insur-

ance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 303.

LIMITATIONS ON DISPOSITION OF PERSONAL PROPERTY

SEC. 302.¹⁹⁵ (a) GENERAL RULE.—Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

(b) APPROVAL BY CHIEF OF MISSION.—The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission's jurisdiction (as described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 303.

(c) VIOLATION.—Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 303, shall be grounds for disciplinary action against an employee.

REGULATIONS

SEC. 303.¹⁹⁶ (a) ISSUANCE; PURPOSE.—The Secretary of State may issue regulations to carry out the purposes of this title. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

(b) CONTRACTORS.—Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this title contracting agencies shall include provisions in their contracts to carry out the purpose of this title.

(c) CHIEF OF MISSION.—In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such

¹⁹⁵ 22 U.S.C. 4342. Sec. 302 was added by sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368). Sec. 186(b) of the same Act made this section effective 180 days after enactment.

¹⁹⁶ 22 U.S.C. 4343. Sec. 303 was added by sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368). Sec. 186(b) of the same Act made this section effective 180 days after enactment.

regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this title within that country to employees under the chief of mission's jurisdiction.

TITLE IV—FOREIGN RELATIONS OF THE UNITED STATES
HISTORICAL SERIES¹⁹⁷

SEC. 401.¹⁹⁸ **GENERAL AUTHORITY AND CONTENTS OF PUBLICATION.**

(a) **CHARTER OF THE PUBLICATION.**—The Department of State shall continue to publish the “Foreign Relations of the United States historical series” (hereafter in this title referred to as the “FRUS series”), which shall be a thorough, accurate, and reliable documentary record of major United States foreign policy decisions and significant United States diplomatic activity. Volumes of this publication shall include all records needed to provide a comprehensive documentation of the major foreign policy decisions and actions of the United States Government, including the facts which contributed to the formulation of policies and records providing supporting and alternative views to the policy position ultimately adopted.

(b) **EDITING PRINCIPLES.**—The editing of records for preparation of the FRUS series shall be guided by the principles of historical objectivity and accuracy. Records shall not be altered and deletions shall not be made without indicating in the published text that a deletion has been made. The published record shall omit no facts which were of major importance in reaching a decision, and nothing shall be omitted for the purpose of concealing a defect of policy.

(c)¹⁹⁹ **DEADLINE FOR PUBLICATION OF RECORDS.**—The Secretary of State shall ensure that the FRUS series shall be published not more than 30 years after the events recorded.

SEC. 402.²⁰⁰ **RESPONSIBILITY FOR PREPARATION OF THE FRUS SERIES.**

(a) **IN GENERAL.**—

(1)(A) The Historian of the Department of State shall be responsible for the preparation of the FRUS series, including the selection of records, in accordance with the provisions of this title.

(B) The Advisory Committee on Historical Diplomatic Documentation shall review records, and shall advise and make rec-

¹⁹⁷ Sec. 198(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 685), added title IV.

¹⁹⁸ 22 U.S.C. 4351.

¹⁹⁹ Sec. 198(c)(2)(A) and (B) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 691), required:

“(c) COMPLIANCE.— * * *

“(2)(A) In order to come into compliance with section 401(c) of the State Department Basic Authorities Act of 1956 (as amended by this section) the Secretary of State shall ensure that, by the end of the 3-year period beginning on the date of the enactment of this Act, all volumes of the Foreign Relations of the United States historical series (FRUS) for the years that are more than 30 years before the end of that 3-year period have been published.

“(B) If the Secretary cannot reasonably meet the requirements of subparagraph (A), the Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and describe how the Department of State plans to meet the requirements of subparagraph (A). In no event shall volumes subject to subparagraph (A) be published later than 5 years after the date of the enactment of this Act.”

²⁰⁰ 22 U.S.C. 4352.

ommendations to the Historian concerning all aspects of preparation and publication of the FRUS series, including, in accordance with the procedures contained in section 403, the review and selection of records for inclusion in volumes of the series.

(2) Other departments, agencies, and other entities of the United States Government shall cooperate with the Office of the Historian by providing full and complete access to the records pertinent to United States foreign policy decisions and actions and by providing copies of selected records in accordance with the procedures developed under section 403, except that no access to any record, and no provision of any copy of a record, shall be required in the case of any record that was prepared less than 26 years before the date of a request for such access or copy made by the Office of the Historian.

(b) NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—Notwithstanding any other provision of this title, the requirement for the National Archives and Records Administration to provide access to, and copies of, records to the Department of State for the FRUS series shall be governed by chapter 21 of title 44, United States Code, by any agreement concluded between the Department of State and the National Archives and Records Administration, and, in the case of Presidential records, by section 2204 of such title.

SEC. 403.²⁰¹ PROCEDURES FOR IDENTIFYING RECORDS FOR THE FRUS SERIES; DECLASSIFICATION, REVISIONS, AND SUMMARIES.

(a) DEVELOPMENT OF PROCEDURES.—Not later than 180 days after the date of enactment of this title, each department, agency, or other entity of the United States Government engaged in foreign policy formulation, execution, or support shall develop procedures for its historical office (or a designated individual in the event that there is no historical office)—

(1) to coordinate with the State Department's Office of the Historian in selecting records for possible inclusion in the FRUS series;

(2) to permit full access to the original, unrevised records by such individuals holding appropriate security clearances as have been designated by the Historian as liaison to that department, agency, or entity, for purposes of this title, and by members of the Advisory Committee; and

(3) to permit access to specific types of records not selected for inclusion in the FRUS series by the individuals identified in paragraph (2) when requested by the Historian in order to confirm that records selected by that department, agency, or entity accurately represent the policymaking process reflected in the relevant part of the FRUS series.

(b) DECLASSIFICATION REVIEW.—

(1) Subject to the provisions of this subsection, records selected by the Historian for inclusion in the FRUS series shall be submitted to the respective originating agency for declassification review in accordance with that agency's procedures for such review, except that such declassification review shall

²⁰¹ 22 U.S.C. 4353.

be completed by the originating agency within 120 days after such records are submitted for review. If the originating agency determines that any such record is not declassifiable because of a continuing need to protect sources and methods for the collection of intelligence information or to protect other sensitive national security information, then the originating agency shall attempt to make such deletions in the text as will make the record declassifiable.

(2) If the Historian determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1) that publication in that condition could be misleading or lead to an inaccurate or incomplete historical record, then the Historian shall take steps to achieve a satisfactory resolution of the problem with the originating agency. Within 60 days of receiving a proposed solution from the Historian, the originating agency shall furnish the Historian a written response agreeing to the solution or explaining the reasons for the alteration or deletion.

(3) The Historian shall inform the Advisory Committee of any failure by an originating agency to complete its declassification review of a record within 120 days and of any steps taken under paragraph (2).

(4) If the Advisory Committee determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1), or if the Advisory Committee determines as a result of inspection of other documents under subsection (a)(3) that the selection of documents could be misleading or lead to an inaccurate or incomplete historical record, then the Advisory Committee shall so advise the Secretary of State and submit recommendations to resolve the issue.

(5)(A) The Advisory Committee shall have full and complete access to the original text of any record in which deletions have been made. In the event that the head of any originating agency considers it necessary to deny access by the Advisory Committee to the original text of any record, that agency head shall promptly notify the Advisory Committee in writing, describing the nature of the record in question and the justification for withholding that record.

(B) The Historian shall provide the Advisory Committee with a complete list of the records described in subparagraph (A).

(6) If a record is deleted in whole or in part as a result of review under this subsection then a note to that effect shall be inserted at the appropriate place in the FRUS volume.

SEC. 404.²⁰² DECLASSIFICATION OF STATE DEPARTMENT RECORDS.

(a) DEADLINE FOR DECLASSIFICATION.—

²⁰² 22 U.S.C. 4354. Sec. 198(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 691) required:

“(c) COMPLIANCE.—

“(1) The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 (as amended by this section) are met not later than one year after the date of enactment of this Act. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives,

(1) Except as provided in subsection (b), each classified record of permanent historical value (as determined by the Secretary of State and the Archivist of the United States) which was published, issued, or otherwise prepared by the Department of State (or any officer or employee thereof acting in an official capacity) shall be declassified not later than 30 years after the record was prepared, shall be transferred to the National Archives and Records Administration, and shall be made available at the National Archives for public inspection and copying.

(2) Nothing in this subsection may be construed to require the declassification of a record wholly prepared by a foreign government.

(b) EXEMPTED RECORDS.—Subsection (a) shall not apply to any record (or portion thereof) the publication of which the Secretary of State, in coordination with any agency that originated information in the records, determines—

(1) would compromise weapons technology important to the national defense of the United States or reveal sensitive information relating to the design of United States or foreign military equipment or relating to United States cryptologic systems or activities;

(2) would disclose the names or identities of living persons who provided confidential information to the United States and would pose a substantial risk of harm to such persons;

(3) would demonstrably impede current diplomatic negotiations or other ongoing official activities of the United States Government or would demonstrably impair the national security of the United States; or

(4) would disclose matters that are related solely to the internal personnel rules and practices of the Department of State or are contained in personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(c) REVIEW.—

(1) The Advisory Committee shall review—

(A) the State Department's declassification procedures,

(B) all guidelines used in declassification, including those guidelines provided to the National Archives and Records Administration which are in effect on the date of enactment of this title, and

(C) by random sampling, records representative of all Department of State records published, issued, or otherwise prepared by the Department of State that remain classified after 30 years.

(2) In the event that the Secretary of State considers it necessary to deny access to records under paragraph (1)(C), the Secretary shall notify the Advisory Committee in writing, describing the nature of the records in question and the justification for withholding them.

and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act.”

(d) **REPORTING REQUIREMENT.**—The Advisory Committee shall annually submit to the Secretary of State a report setting forth its findings from the review conducted under subsection (c).

(e) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this title, the Secretary of State shall prepare and submit a written report to the Committee on Foreign Affairs²⁰³ of the House of Representatives and the Committee on Foreign Relations of the Senate on factors relevant to compliance with this section, and the procedures to be used for implementing the requirements of this section.

SEC. 405.²⁰⁴ RELATIONSHIP TO THE PRIVACY ACT AND THE FREEDOM OF INFORMATION ACT.

(a) **PRIVACY ACT.**—Nothing in this title may be construed as requiring the public disclosure of records or portions of records protected under section 552a of title 5, United States Code (relating to the privacy of personal records).

(b) **FREEDOM OF INFORMATION ACT.**—

(1) Except as provided in paragraph (2), no record (or portion thereof) shall be excluded from publication in the FRUS series under section 403, or exempted from the declassification requirement of section 404, solely by virtue of the application of section 552(b) of title 5, United States Code (relating to the exemption of certain matters from freedom of information requirements).

(2) Records described in section 222(f) of the Immigration and Nationality Act (relating to visa records) shall be excluded from publication in the FRUS series under section 403 and, to the extent applicable, exempted from the declassification requirement of section 404.

SEC. 406.²⁰⁵ ADVISORY COMMITTEE.

(a)²⁰⁶ **ESTABLISHMENT.**—

(1) There is established on a permanent basis the Advisory Committee on Historical Diplomatic Documentation for the Department of State. The activities of the Advisory Committee shall be coordinated by the Office of the Historian of the Department of State.

(2) The Advisory Committee shall be composed of 9 members and an executive secretary. The Historian shall serve as executive secretary.

(3)(A) The members of the Advisory Committee shall be appointed by the Secretary of State from among distinguished historians, political scientists, archivists, international lawyers, and other social scientists who have a demonstrable record of substantial research pertaining to the foreign relations of the United States. No officer or employee of the United States Government shall be appointed to the Advisory Committee.

²⁰³ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁰⁴ 22 U.S.C. 4355.

²⁰⁵ 22 U.S.C. 4356.

²⁰⁶ Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(B)(i) Six members of the Advisory Committee shall be appointed from lists of individuals nominated by the American Historical Association, the Organization of American Historians, the American Political Science Association, Society of American Archivists, the American Society of International Law, and the Society for Historians of American Foreign Relations. One member shall be appointed from each list.

(ii) If an organization does not submit a list of nominees under clause (i) in a timely fashion, the Secretary of State shall make an appointment from among the nominees on other lists.

(b) TERMS OF SERVICE FOR APPOINTMENTS.—

(1) Except as provided in paragraph (2), members of the Advisory Committee shall be appointed for terms of three years.

(2) Of the members first appointed, as designated by the Secretary of State at the time of their appointment (after consultation with the appropriate organizations) three shall be appointed for terms of one year, three shall be appointed for terms of two years, and three shall be appointed for terms of three years.

(3) Each term of service under paragraph (1) shall begin on September 1 of the year in which the appointment is made.

(4) A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment. A member appointed to fill a vacancy occurring before the expiration of a term shall serve for the remainder of that term. A member may continue to serve when his or her term expires until a successor is appointed. A member may be appointed to a new term upon the expiration of his or her term.

(c) SELECTION OF CHAIRPERSON.—The Advisory Committee shall select, from among its members, a chairperson to serve a term of 1 year. A chairperson may be reelected upon expiration of his or her term as chairperson.

(d) MEETINGS.—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least quarterly or as frequently as may be necessary to carry out its duties.

(e) SECURITY CLEARANCES.—

(1) All members of the Advisory Committee shall be granted the necessary security clearances, subject to the standard procedures for granting such clearances.

(2) For purposes of any law or regulation governing access to classified records, a member of the Advisory Committee seeking access under this paragraph to a record shall be deemed to have a need to know.

(f) COMPENSATION.—

(1) Members of the Advisory Committee—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Advisory Committee; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(2) The Secretary of State is authorized to provide for necessary secretarial and staff assistance for the Advisory Committee.

(3) The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this title are inconsistent with that Act.

SEC. 407.²⁰⁷ DEFINITIONS.

For purposes of this title—

(1) the term “Advisory Committee” means the Advisory Committee on Historical Diplomatic Documentation for the Department of State;

(2) the term “Historian” means the Historian of the Department of State or any successor officer of the Department of State responsible for carrying out the functions of the Office of the Historian, Bureau of Public Affairs, of the Department of State, as in effect on the date of enactment of this title;

(3) the term “originating agency” means, with respect to a record, the department, agency, or entity of the United States (or any officer or employee thereof of acting in his official capacity) that originates, develops, publishes, issues, or otherwise prepares that record or receives that record from outside the United States Government; and

(4) the term “record” includes any written material (including any document, memorandum, correspondence, statistical data, book, or other papers), map, photograph, machine readable material, or other documentary material, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value in them, and such term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes, any extra copy of a document preserved only for convenience of reference, or any stocks of publications or of processed documents.

²⁰⁷ 22 U.S.C. 4357.

c. United States-Macau Policy Act of 2000

Title II of Public Law 106-570 [Assistance for International Malaria Control Act; S. 2943], 114 Stat. 3040, approved December 27, 2000

AN ACT To authorize assistance for international malaria control, and for other purposes.

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

* * * * *

TITLE II—POLICY OF THE UNITED STATES WITH RESPECT TO MACAU¹

SEC. 201. SHORT TITLE.

This title may be cited as the “United States-Macau Policy Act of 2000”.

SEC. 202. FINDINGS AND DECLARATIONS; SENSE OF CONGRESS.

(a) FINDINGS AND DECLARATIONS.—Congress makes the following findings and declarations:

(1) The continued economic prosperity of Macau furthers United States interests in the People’s Republic of China and Asia.

(2) Support for democratization is a fundamental principle of United States foreign policy, and as such, that principle naturally applies to United States policy toward Macau.

(3) The human rights of the people of Macau are of great importance to the United States and are directly relevant to United States interests in Macau.

(4) A fully successful transition in the exercise of sovereignty over Macau must continue to safeguard human rights in and of themselves.

(5) Human rights also serve as a basis for Macau’s continued economic prosperity, and Congress takes note of Macau’s adherence to the International Covenant on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights.

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

(1) the United States should play an active role in maintaining Macau’s confidence and prosperity, Macau’s unique cultural heritage, and the mutually beneficial ties between the people of the United States and the people of Macau;

(2) through its policies, the United States should contribute to Macau’s ability to maintain a high degree of autonomy in matters other than defense and foreign affairs as promised by the People’s Republic of China and the Republic of Portugal in

¹ 22 U.S.C. 6901 note.

the Joint Declaration, particularly with respect to such matters as trade, commerce, law enforcement, finance, monetary policy, aviation, shipping, communications, tourism, cultural affairs, sports, and participation in international organizations, consistent with the national security and other interests of the United States; and

(3) the United States should actively seek to establish and expand direct bilateral ties and agreements with Macau in economic, trade, financial, monetary, mutual legal assistance, law enforcement, communication, transportation, and other appropriate areas.

SEC. 203. CONTINUED APPLICATION OF UNITED STATES LAW.

(a) CONTINUED APPLICATION.—

(1) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Macau, and subject to subsections (b) and (c), the laws of the United States shall continue to apply with respect to Macau in the same manner as the laws of the United States were applied with respect to Macau before December 20, 1999, unless otherwise expressly provided by law or by Executive order issued pursuant to paragraph (2).

(2) EXCEPTION.—Whenever the President determines that Macau is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of paragraph (1) to such law or provision of law. The President shall promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate concerning any such determination and shall publish the Executive order in the Federal Register.

(b) EXPORT CONTROLS.—

(1) IN GENERAL.—The export control laws, regulations, and practices of the United States shall apply to Macau in the same manner and to the same extent that such laws, regulations, and practices apply to the People's Republic of China, and in no case shall such laws, regulations, and practices be applied less restrictively to exports to Macau than to exports to the People's Republic of China.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the provision of export control assistance to Macau.

(c) INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—Subject to subsection (b) and paragraph (2), for all purposes, including actions in any court of the United States, Congress approves of the continuation in force after December 20, 1999, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Macau, or entered into force before such date between the United States and the Republic of Portugal and applied to Macau, unless or until terminated in accordance with law.

(2) EXCEPTION.—If, in carrying out this subsection, the President determines that Macau is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Macau's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, the President shall take appropriate action to modify or terminate such treaty or other international agreement. The President shall promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate concerning such determination.

SEC. 204. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and not later than March 31 of each of the years 2001, 2002, and 2003, the Secretary of State shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on conditions in Macau of interest to the United States. The report shall describe—

(1) significant developments in United States relations with Macau, including any determination made under section 203;

(2) significant developments related to the change in the exercise of sovereignty over Macau affecting United States interests in Macau or United States relations with Macau and the People's Republic of China;

(3) the development of democratic institutions in Macau;

(4) compliance by the Government of the People's Republic of China and the Government of the Republic of Portugal with their obligations under the Joint Declaration; and

(5) the nature and extent of Macau's participation in multilateral forums.

(b) SEPARATE PART OF COUNTRY REPORTS.—Whenever a report is transmitted to Congress on a country-by-country basis, there shall be included in such report, where applicable, a separate subreport on Macau under the heading of the country that exercises sovereignty over Macau.

SEC. 205. DEFINITIONS.

In this title:

(1) JOINT DECLARATION.—The term "Joint Declaration" means the Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macau, dated April 13, 1987.

(2) MACAU.—The term "Macau" means the territory that prior to December 20, 1999, was the Portuguese Dependent Territory of Macau and after December 20, 1999, became the Macau Special Administrative Region of the People's Republic of China.

d. Pacific Charter Commission Act of 2000

Title IV of Public Law 106-570 [Assistance for International Malaria Control Act; S. 2943], 114 Stat. 3047, approved December 27, 2000

AN ACT To authorize assistance for international malaria control, and for other purposes.

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

* * * * *

TITLE IV—PACIFIC CHARTER COMMISSION ACT OF 2000¹

SEC. 401. SHORT TITLE.

This title may be cited as the “Pacific Charter Commission Act of 2000”.

SEC. 402. PURPOSES.

The purposes of this title are—

- (1) to promote a consistent and coordinated foreign policy of the United States to ensure economic and military security in the Asia-Pacific region;
- (2) to support democratization, the rule of law, and human rights in the Asia-Pacific region;
- (3) to promote United States exports to the Asia-Pacific region by advancing economic cooperation;
- (4) to assist in combating terrorism and the spread of illicit narcotics in the Asia-Pacific region; and
- (5) to advocate an active role for the United States Government in diplomacy, security, and the furtherance of good governance and the rule of law in the Asia-Pacific region.

SEC. 403. ESTABLISHMENT OF COMMISSION.

(a) **IN GENERAL.**—The President is authorized to establish a commission to be known as the Pacific Charter Commission (hereafter in this title referred to as the “Commission”).

(b) **EXPIRATION OF AUTHORITY.**—The authority to establish the Commission under this section shall expire at the close of December 31, 2002.

SEC. 404. DUTIES OF COMMISSION.

(a) **DUTIES.**—The Commission should establish and carry out, either directly or through nongovernmental organizations, programs, projects, and activities to achieve the purposes described in section 402, including research and educational or legislative exchanges between the United States and countries in the Asia-Pacific region.

¹ 22 U.S.C. 2656 note.

(b) **MONITORING OF DEVELOPMENTS.**—The Commission should monitor developments in countries of the Asia-Pacific region with respect to United States foreign policy toward such countries, the status of democratization, the rule of law and human rights in the region, economic relations among the United States and such countries, and activities related to terrorism and the illicit narcotics trade.

(c) **POLICY REVIEW AND RECOMMENDATIONS.**—In carrying out this section, the Commission should evaluate United States Government policies toward countries of the Asia-Pacific region and recommend options for policies of the United States Government with respect to such countries, with a particular emphasis on countries that are of importance to the foreign policy, economic, and military interests of the United States.

(d) **CONTACTS WITH OTHER ENTITIES.**—In performing the functions described in subsections (a) through (c), the Commission should, as appropriate, seek out and maintain contacts with non-governmental organizations, international organizations, and representatives of industry, including receiving reports and updates from such organizations and evaluating such reports.

(e) **ANNUAL REPORT.**—Not later than 18 months after the date of the establishment of the Commission, and not later than the end of each 12-month period thereafter, the Commission shall prepare and submit to the President and Congress a report that contains the findings of the Commission, in the case of the initial report, during the period since the date of establishment of the Commission, or, in the case of each subsequent report, during the preceding 12-month period. Each such report shall contain—

(1) recommendations for legislative, executive, or other actions resulting from the evaluation of policies described in subsection (c);

(2) a description of programs, projects, and activities of the Commission for the prior year or, in the case of the initial report, since the date of establishment of the Commission; and

(3) a complete accounting of the expenditures made by the Commission during the prior year or, in the case of the initial report, since the date of establishment of the Commission.

SEC. 405. MEMBERSHIP OF COMMISSION.

(a) **COMPOSITION.**—If established pursuant to section 403, the Commission shall be composed of seven members all of whom—

(1) shall be citizens of the United States who are not officers or employees of any government, except to the extent they are considered such officers or employees by virtue of their membership on the Commission; and

(2) shall have interest and expertise in issues relating to the Asia-Pacific region.

(b) **APPOINTMENT.**—

(1) **IN GENERAL.**—The individuals referred to in subsection (a) shall be appointed—

(A) by the President, after consultation with the Speaker and Minority Leader of the House of Representatives, the Chairman and ranking member of the Committee on International Relations of the House of Representatives, the

Majority Leader and Minority Leader of the Senate, and the Chairman and ranking member of the Committee on Foreign Relations of the Senate; and

(B) by and with the advice and consent of the Senate.

(2) POLITICAL AFFILIATION.—Not more than four of the individuals appointed under paragraph (1) may be affiliated with the same political party.

(c) TERM.—Each member of the Commission shall be appointed for a term of 6 years.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) CHAIRPERSON; VICE CHAIRPERSON.—The President shall designate a Chairperson and Vice Chairperson of the Commission from among the members of the Commission.

(f) COMPENSATION.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(i) AFFIRMATIVE DETERMINATIONS.—An affirmative vote by a majority of the members of the Commission shall be required for any affirmative determination by the Commission under section 404.

SEC. 406. POWERS OF COMMISSION.

(a) HEARINGS AND INVESTIGATIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, and conduct such investigations as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) CONTRIBUTIONS.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of assisting or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 407. STAFF AND SUPPORT SERVICES OF COMMISSION.

(a) EXECUTIVE DIRECTOR.—The Commission shall have an executive director appointed by the Commission who shall serve the

Commission under such terms and conditions as the Commission determines to be appropriate.

(b) **STAFF.**—The Commission may appoint and fix the pay of such additional personnel, not to exceed 10 individuals, as it considers appropriate.

(c) **STAFF OF FEDERAL AGENCIES.**—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties under this title.

(d) **EXPERTS AND CONSULTANTS.**—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 408. TERMINATION.

The Commission shall terminate not later than 6 years after the date of the establishment of the Commission.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—In the event the Commission is established, there are authorized to be appropriated to carry out this title \$2,500,000 for the initial 24-month period of the existence of the Commission.

(b) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

SEC. 410. EFFECTIVE DATE.

This title shall take effect on February 1, 2001.

e. Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001

Partial text of Public Law 106-113 [H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113], 113 Stat. 1536, approved November 29, 1999

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations, and for other purposes

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) ACT.—This Act is organized into two divisions as follows:

(1) DIVISION A.—Department of State Provisions.

(2) DIVISION B.—Arms Control, Nonproliferation, and Security Assistance Provisions.

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

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¹ 22 U.S.C. 2651 note.

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SEC. 3.² DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided in section 902(1), the term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) SECRETARY.—The term “Secretary” means the Secretary of State.

DIVISION A—DEPARTMENT OF STATE PROVISIONS

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

SUBTITLE A—DEPARTMENT OF STATE

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to

² 22 U.S.C. 2651 note.

carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1)³ DIPLOMATIC AND CONSULAR PROGRAMS.—

³For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended, the Mutual Educational and Cultural Exchange Act of 1961, as amended, and the United States Information and Educational Exchange Act of 1948, as amended, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of such Act; expenses authorized by section 9 of the Act of August 31, 1964, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized by the Arms Control and Disarmament Act of September 26, 1961, as amended; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$2,569,825,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, of the amount made available under this heading, not to exceed \$4,500,000 may be transferred to, and merged with, funds in the “International Broadcasting Operations” appropriations account only to avoid reductions in force at the Voice of America, subject to the reprogramming procedures described in section 605 of this Act: *Provided further*, That, in fiscal year 2000, all receipts collected from individuals for assistance in the preparation and filing of an affidavit of support pursuant to section 213A of the Immigration and Nationality Act shall be deposited into this account as an offsetting collection and shall remain available until expended: *Provided further*, That of the amount made available under this heading, \$236,291,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, \$500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That of the amount made available under this heading, \$2,500,000 shall be available only for overseas continuing language education: *Provided further*, That of the amount made available under this heading, not to exceed \$1,162,000 shall be available for transfer to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That any amount transferred pursuant to the previous proviso shall not result in a total amount transferred to the Commission from all Federal sources that exceeds the authorized amount: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2000 and 2001, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2000 and 2001 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended: *Provided further*, That of the amount made available under this heading, \$10,000,000 is appropriated for a Northern Boundary and Transboundary Rivers Restoration Fund: *Provided further*, That of the amount made available under this heading, not less than \$9,000,000 shall be available for the Office of Defense Trade Controls.

“In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs, and from fees from educational advising and counseling, and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

“In addition, for the costs of worldwide security upgrades, \$254,000,000, to remain available until expended.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-90), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of

(A) AUTHORIZATION OF APPROPRIATIONS.—For “Diplomatic and Consular Programs” of the Department of State, \$2,837,772,000 for the fiscal year 2000 and \$3,263,438,000 for the fiscal year 2001.

(B) LIMITATIONS.—

(i) WORLDWIDE SECURITY UPGRADES.—Of the amounts authorized to be appropriated by subparagraph (A), \$254,000,000 for the fiscal year 2000 and \$315,000,000 for the fiscal year 2001 is authorized to be appropriated only for worldwide security upgrades.

(ii) BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—Of the amounts authorized to be appropriated by subparagraph (A), \$12,000,000 for the fiscal year 2000 and \$12,000,000 for the fiscal year 2001 is authorized to be appropriated only for salaries and ex-

persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$2,758,725,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, in fiscal year 2001, all receipts collected from individuals for assistance in the preparation and filing of an affidavit of support pursuant to section 213A of the Immigration and Nationality Act shall be deposited into this account as an offsetting collection and shall remain available until expended: *Provided further*, That, of the amount made available under this heading, \$246,644,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, \$5,000,000 shall be available only for overseas continuing language education: *Provided further*, That of the amount made available under this heading, not to exceed \$1,400,000 shall be available for transfer to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2001 and 2002, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2001 and 2002 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended: *Provided further*, That advances for services authorized by 22 U.S.C. 3620(c) may be credited to this account, to remain available until expended for such services: *Provided further*, That in fiscal year 2001 and thereafter reimbursements for services provided to the press in connection with the travel of senior-level officials may be collected and credited to this appropriation and shall remain available until expended: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People’s Republic of China, unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action: *Provided further*, That of the amount made available under this heading, \$40,000,000 shall only be available to implement the 1999 Pacific Salmon Treaty Agreement, of which \$10,000,000 shall be deposited in the Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund, of which \$10,000,000 shall be deposited in the Southern Boundary Restoration and Enhancement Fund, and of which \$20,000,000 shall be for a direct payment to the State of Washington for obligations under the 1999 Pacific Salmon Treaty Agreement.

“In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs, and from fees from educational advising and counseling, and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

“In addition, for the costs of worldwide security upgrades, \$410,000,000, to remain available until expended.”

penses of the Bureau of Democracy, Human Rights, and Labor.

(iii) RECRUITMENT OF MINORITY GROUPS.—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 2000 and \$2,000,000 for fiscal year 2001 is authorized to be appropriated only for the recruitment of members of minority groups for careers in the Foreign Service and international affairs.

(2)⁴ CAPITAL INVESTMENT FUND.—For “Capital Investment Fund” of the Department of State, \$90,000,000 for the fiscal year 2000 and \$150,000,000 for the fiscal year 2001.

(3) EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.—For “Embassy Security, Construction and Maintenance”, \$434,066,000 for the fiscal year 2000 and \$445,000,000 for the fiscal year 2001.

(4)⁵ REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$5,850,000 for the fiscal year 2000 and \$5,850,000 for the fiscal year 2001.

(5)⁶ EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Serv-

⁴ For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$80,000,000, to remain available until expended, as authorized in Public Law 103-236: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$97,000,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

⁵ The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$5,850,000 for “Representation Allowances” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided \$6,499,000 for “Representation Allowances”.

⁶ For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

“For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), and as authorized by section 804(3) of the United States Information and Educational Exchange Act of 1948, as amended, \$5,500,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

“For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$5,477,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.”

See also the paragraphs providing for diplomatic and consular programs, footnote 3, and the paragraph providing for the repatriation loans program account, footnote 10.

ice”, \$17,000,000 for the fiscal year 2000 and \$17,000,000 for the fiscal year 2001.

(6)⁷ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$30,054,000 for the fiscal year 2000 and \$30,054,000 for the fiscal year 2001.

(7)⁸ PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$15,760,000 for the fiscal year 2000 and \$15,918,000 for the fiscal year 2001.

(8)⁹ PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—

(A) AMOUNTS AUTHORIZED TO BE APPROPRIATED.—For “Protection of Foreign Missions and Officials”, \$9,490,000 for the fiscal year 2000 and \$9,490,000 for the fiscal year 2001.

(B) AVAILABILITY OF FUNDS.—Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount was appropriated.

(9)¹⁰ REPATRIATION LOANS.—For “Repatriation Loans”, \$1,200,000 for the fiscal year 2000 and \$1,200,000 for the fiscal year 2001, for administrative expenses.

⁷For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11, as amended by Public Law 100-504), \$20,000,000.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General, \$28,490,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.”

⁸For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$15,375,000 for “Payment to the American Institute in Taiwan”.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided \$16,345,000 for “Payment to the American Institute in Taiwan”.

⁹The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$8,100,000 for “Protection of Foreign Missions and Officials” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided \$15,467,000 for “Protection of Foreign Missions and Officials”, of which \$5,000,000 was designated for reimbursement to the City of Seattle, Washington.

¹⁰For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided the following:

Continued

SEC. 102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A)¹¹ for "Salaries and Expenses", \$20,413,000 for the fiscal year 2000 and \$20,413,000 for the fiscal year 2001; and

(B)¹² for "Construction", \$8,435,000 for the fiscal year 2000 and \$8,435,000 for the fiscal year 2001.

(2)¹³ INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", \$859,000 for the fiscal year 2000 and \$859,000 for the fiscal year 2001.

(3)¹³ INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", \$3,819,000 for the fiscal year 2000 and \$3,819,000 for the fiscal year 2001.

"REPATRIATION LOANS PROGRAM ACCOUNT

"For the cost of direct loans, \$591,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$604,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs."

¹¹The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$19,551,000 for "Salaries and Expenses" related to the International Boundary and Water Commission, United States and Mexico, for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$7,142,000 for "Salaries and Expenses" related to the International Boundary and Water Commission, United States and Mexico.

¹²For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$5,939,000 for "Construction" related to the International Boundary and Water Commission, United States and Mexico, to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$22,950,000 for "Construction" related to the International Boundary and Water Commission, United States and Mexico, to remain available until expended.

¹³For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

"AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

"For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$5,733,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission."

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided the following:

"AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

"For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$6,741,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission."

(4)¹⁴ INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$16,702,000 for the fiscal year 2000 and \$16,702,000 for the fiscal year 2001.

SEC. 103.¹⁵ MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance”

¹⁴The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$15,549,000 for “International Fisheries Commissions” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$19,392,000 for “International Fisheries Commissions”.

¹⁵Appropriations for Migration and Refugee Assistance are administered by the State Department and provided for in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 2000 appropriations levels and conditions were provided in title II of H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113 (113 Stat. 1535):

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$625,000,000, of which \$21,000,000 shall become available for obligation on September 30, 2000, and remain available until expended: *Provided*, That not more than \$13,800,000 shall be available for administrative expenses: *Provided further*, That not less than \$60,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$12,500,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

Fiscal year 2001 appropriations levels and conditions were provided in title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2001 (H.R. 5526, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900A-15):

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$700,000,000, which shall remain available until expended: *Provided*, That not more than \$14,500,000 shall be available for administrative expenses: *Provided further*, That funds appropriated under this heading to support activities and programs conducted by the United Nations High Commissioner for Refugees shall be made available after reporting at least 5 days in advance to the Committees on Appropriations: *Provided further*, That the reporting requirement contained in the previous proviso may be waived for any such obligation if failure to waive this requirement would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, a report to the Committees on Appropriations shall be provided as early as practicable, but in no event later than 5 days after such obligation: *Provided further*, That not less than \$60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$15,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

for authorized activities, \$750,000,000 for the fiscal year 2000 and \$750,000,000 for the fiscal year 2001.

(2) LIMITATIONS.—

(A) TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1), \$60,000,000 for the fiscal year 2000 and \$60,000,000 for the fiscal year 2001 is authorized to be available only for assistance for refugees resettling in Israel from other countries.

(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(D) ASSISTANCE FOR DISPLACED SIERRA LEONEANS.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) and resettlement of persons who have been severely mutilated as a result of civil conflict in Sierra Leone, including persons still within Sierra Leone.

(E) INTERNATIONAL RAPE COUNSELING PROGRAM.—Of the amounts authorized to be appropriated in paragraph (1), \$1,000,000 for the fiscal year 2000 and \$1,000,000 for the fiscal year 2001 are authorized to be appropriated for a program of counseling for female victims of rape and gender violence in times of conflict and war.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 104. UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS.

(a)¹⁶ IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State to carry out international

¹⁶The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following for fiscal year 2000:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977, as amended (91 Stat. 1636), \$205,000,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and edu-

information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, other such programs including the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and the Mike Mansfield Fellowship Program, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$112,000,000 for the fiscal year 2000 and \$120,000,000 for the fiscal year 2001.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For other educational and cultural exchange programs authorized by law, including the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and Mike Mansfield Fellowship Program, \$98,329,000 for the fiscal year 2000 and \$105,000,000 for the fiscal year 2001.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2000 and \$750,000 for the fiscal year 2001 is authorized to be available for “South Pacific Exchanges”.

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available for “East Timorese Scholarships”.

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available for “Ngawang Choephel Exchange Programs” (formerly known as educational and cultural exchanges with Tibet) under section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319).

cational advising and counseling programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e).”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of educational and cultural exchange programs, as authorized, \$231,587,000, to remain available until expended: *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and educational advising and counseling programs as authorized.”

(v) AFRICAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available only for “Educational and Cultural Exchanges with Sub-Saharan Africa”.

(vi)¹⁷ ISRAEL-ARAB PEACE PARTNERS PROGRAM.—Of the amounts authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2000 and \$750,000 for the fiscal year 2001 is authorized to be available only for people-to-people activities (with a focus on young people) to support the Middle East peace process involving participants from Israel, the Palestinian Authority, Arab countries, and the United States, to be known as the “Israel-Arab Peace Partners Program”. Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a plan to the appropriate congressional committees for implementation of such program. The Secretary shall not implement the plan until 45 days after its submission to the appropriate congressional committees.

(2) NATIONAL ENDOWMENT FOR DEMOCRACY.—

(A)¹⁸ AUTHORIZATION OF APPROPRIATIONS.—For the “National Endowment for Democracy”, \$32,000,000 for the fiscal year 2000 and \$32,000,000 for the fiscal year 2001.

(B) REAGAN-FASCELL DEMOCRACY FELLOWS.—Of the amount authorized to be appropriated by subparagraph (A), \$1,000,000 for fiscal year 2000 and \$1,000,000 for the fiscal year 2001 is authorized to be appropriated only for a fellowship program, to be known as the “Reagan-Fascell Democracy Fellows”, for democracy activists and scholars from around the world at the International Forum for Democratic Studies in Washington, D.C., to study, write, and exchange views with other activists and scholars and with Americans.

(3)¹⁹ DANTE B. FASCELL NORTH-SOUTH CENTER.—For “Dante B. Fascell North-South Center” \$2,500,000 for the fiscal year 2000 and \$2,500,000 for the fiscal year 2001.

¹⁷ See also sec. 214 of Public Law 102-138 (22 U.S.C. 2452), page 1283.

The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“ISRAELI ARAB SCHOLARSHIP PROGRAM

“For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2001, to remain available until expended.”

¹⁸ For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$31,000,000 for the “National Endowment for Democracy” to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided \$30,999,000, to remain available until expended.

¹⁹ For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$1,750,000 for the “North/South Center” to remain available until ex-

(4)²⁰ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, \$12,500,000 for the fiscal year 2000 and \$12,500,000 for the fiscal year 2001.

(b) MUSKIE FELLOWSHIPS.—

(1) EXCHANGES WITH RUSSIA.—Of the amounts authorized to be appropriated by this or any other Act for the fiscal years 2000 and 2001 for exchange programs with the Russian Federation, \$5,000,000 for fiscal year 2000 and \$5,000,000 for fiscal year 2001 shall be available only to carry out the Edmund S. Muskie Program under section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(2) DOCTORAL GRADUATE STUDIES FOR NATIONALS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—Of the amounts authorized to be appropriated by this or any other Act for the fiscal years 2000 and 2001 for exchange programs, \$1,500,000 for fiscal year 2000 and \$1,500,000 for fiscal year 2001 shall be available only to provide scholarships for doctoral graduate study in economics to nationals of the independent states of the former Soviet Union under the Edmund S. Muskie Fellowship Program authorized by section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(c) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amounts authorized to be appropriated by subsection (a)(1)(A), \$4,000,000 for the fiscal year 2000 and \$4,000,000 for the fiscal year 2001 shall be available only to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

SEC. 105. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164; 22 U.S.C. 4403) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this title.”²¹

SEC. 106.²² CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

pended. Funding for the Fascell Center for fiscal year 2001 is drawn from those funds appropriated for educational and cultural exchange programs.

²⁰The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$12,500,000 for the “East-West Center” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided \$13,500,000 for the “East-West Center”.

²¹For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided \$8,250,000 for the Asia Foundation to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$9,250,000 for the Asia Foundation, to remain available until expended.

(1) IN GENERAL.—There are authorized to be appropriated under the heading “Contributions to International Organizations” \$940,000,000 for the fiscal year 2000 and such sums as may be necessary for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

²²For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$885,203,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”.

* * * * *

“ARREARAGE PAYMENTS

“For an additional amount for payment of arrearages to meet obligations of authorized membership in international multilateral organizations, and to pay assessed expenses of international peacekeeping activities, \$244,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for any designated specialized agency of the United Nations does not exceed 22 percent for any single member of the agency, and the designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000-2001 from the 1998-1999 biennium budget levels of the respective agencies: *Provided further*, That, notwithstanding the preceding proviso, an additional amount, not to exceed \$107,000,000, which is owed by the United Nations to the United States as a reimbursement, including any reimbursement under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945, that was owed to the United States before the date of the enactment of this Act shall be applied or used, without fiscal year limitations, to reduce any amount owed by the United States to the United Nations.”.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided the following:

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$870,833,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That of the funds appropriated in this paragraph, \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in calendar year 2000 prior to the date of enactment of this Act to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed the budget for the biennium 2000-2001 of \$2,535,700,000: *Provided further*, That if the Secretary of State is unable to make the aforementioned certification, the \$100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations, subject to the reprogramming procedures contained in Section 605 of this Act: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amounts authorized in paragraph (1), \$48,977,000 are authorized in fiscal year 2000 and such sums as may be necessary in fiscal year 2001 for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) NO GROWTH BUDGET.—Of the funds made available under subsection (a), \$80,000,000 may be made available during each calendar year only after the Secretary of State certifies that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease during that calendar year elsewhere in the United Nations budget of \$2,533,000,000, and cause the United Nations to exceed the initial 1998–99 United Nations biennium budget adopted in December 1997.

(c) INSPECTOR GENERAL OF THE UNITED NATIONS.—

(1) WITHHOLDING OF FUNDS.—Twenty percent of the funds made available in each fiscal year under subsection (a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under paragraph (2).

(2) CERTIFICATION.—A certification under this paragraph is a certification by the Secretary of State in the fiscal year concerned that the following conditions are satisfied:

(A) ACTION BY THE UNITED NATIONS.—The United Nations—

(i) has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), as amended by paragraph (3);

(ii) has established procedures that require the Under Secretary General of the Office of Internal Oversight Services to report directly to the Secretary General on the adequacy of the Office's resources to enable the Office to fulfill its mandate; and

(iii) has made available an adequate amount of funds to the Office for carrying out its functions.

(B) AUTHORITY BY OIOS.—The Office of Internal Oversight Services has authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified of that authority.

(3) AMENDMENT OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995.—Section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(A) by amending paragraph (6) to read as follows:

“(6) the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.”; and

(B) by striking “Inspector General” each place it appears and inserting “Office of Internal Oversight Services”.

(d) PROHIBITION ON CERTAIN GLOBAL CONFERENCES.—None of the funds made available under subsection (a) shall be available for any United States contribution to pay for any expense related to the holding of any United Nations global conference, except for any conference scheduled prior to October 1, 1998.

(e) PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.—None of the funds made available for the 1998–1999 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations shall be available for the United States proportionate share of any other framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, the Desertification Convention, and the International Criminal Court.

(f) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 and 2001 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g)²³ REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.

SEC. 107.²⁴ CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

There are authorized to be appropriated under the heading “Contributions for International Peacekeeping Activities” \$500,000,000

²³ 22 U.S.C. 287e note.

²⁴ For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$500,000,000, of which not to exceed \$20,000,000 shall remain available until September 30, 2001: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

for the fiscal year 2000 and such sums as may be necessary for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

SEC. 108. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for “Voluntary Contributions to International Organizations”, \$293,000,000 for the fiscal year 2000 and such sums as may be necessary for the fiscal year 2001.

(b) **LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS.**—

(1) **WORLD FOOD PROGRAM.**—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 2000 and \$5,000,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the World Food Program.

(2) **UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.**—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 2000 and \$5,000,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) **ORGANIZATION OF AMERICAN STATES.**—Of the amounts authorized to be appropriated under subsection (a), \$240,000 for the fiscal year 2000 and \$240,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the Organization of American States for the Office of the Special Rapporteur for Freedom of Expression in the Western Hemisphere to conduct investigations, including field visits, to establish a network of nongovernmental organizations, and to hold hemispheric conferences, of which \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of free-

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-93), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$846,000,000, of which 15 percent shall remain available until September 30, 2002: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

See also paragraph relating to arrearage payments, footnote 22.

dom of expression by the Government of Cuba, \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of freedom of expression by the Government of Peru, and \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of freedom of expression by the Government of Colombia.

(4) UNICEF.—Of the amounts authorized to be appropriated under subsection (a), \$110,000,000 for the fiscal year 2000 is authorized to be appropriated only for a United States contribution to UNICEF.

(c)²⁵ RESTRICTIONS ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.—

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

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

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

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

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

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

(d) CONTRIBUTIONS TO THE UNITED NATIONS FUND FOR POPULATION ACTIVITIES.—

(1) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under subsection (a), not more than \$25,000,000 for fiscal year 2000 and \$25,000,000 for fiscal year 2001 shall be available for the United Nations Fund for Population Activities (hereinafter in this subsection referred to as the “UNFPA”).

²⁵ In Delegation of Authority No. 238 of February 9, 2000, the Secretary of State delegated authority in sec. 108(c) to the Assistant Secretary of State for International Organization Affairs (65 F.R. 7903).

(2) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under subsection (a) may be made available for the UNFPA for a country program in the People's Republic of China.

(3) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under subsection (a) for each of the fiscal years 2000 and 2001 for the UNFPA may not be made available to the UNFPA unless—

(A) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(B) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(C) the UNFPA does not fund abortions.

(4) REPORT TO CONGRESS AND WITHHOLDING OF FUNDS.—

(A) Not later than February 15, of each of the years 2000 and 2001, the Secretary of State shall submit a report to the appropriate congressional committees indicating the amount of funds that the United Nations Fund for Population Activities is budgeting for the year in which the report is submitted for a country program in the People's Republic of China.

(B) If a report under subparagraph (A) indicates that the United Nations Population Fund plans to spend funds for a country program in the People's Republic of China in the year covered by the report, then the amount of such funds that the UNFPA plans to spend in the People's Republic of China shall be deducted from the funds made available to the UNFPA after March 1 for obligation for the remainder of the fiscal year in which the report is submitted.

(e) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SUBTITLE B—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act, and to carry out other authorities in law consistent with such purposes:

(1)²⁶ INTERNATIONAL BROADCASTING ACTIVITIES.—For “International Broadcasting Activities”, \$385,900,000 for the fiscal year 2000, and \$393,618,000 for the fiscal year 2001.

²⁶For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

(2)²⁷ BROADCASTING CAPITAL IMPROVEMENTS.—For “Broadcasting Capital Improvements”, \$20,868,000 for the fiscal year 2000, and \$20,868,000 for the fiscal year 2001.

(3)²⁸ BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,743,000 for the fiscal year 2000 and \$22,743,000 for the fiscal year 2001.

“BROADCASTING BOARD OF GOVERNORS

“INTERNATIONAL BROADCASTING OPERATIONS

“For expenses necessary to enable the Broadcasting Board of Governors, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, Reorganization Plan No. 2 of 1977, as amended, and the Foreign Affairs Reform and Restructuring Act of 1998, to carry out international communication activities, \$388,421,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed \$35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“BROADCASTING BOARD OF GOVERNORS

“INTERNATIONAL BROADCASTING OPERATIONS

“For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, \$398,971,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.”

²⁷For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“BROADCASTING CAPITAL IMPROVEMENTS

“For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), \$11,258,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“BROADCASTING CAPITAL IMPROVEMENTS

“For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$20,358,000, to remain available until expended, as authorized.”

²⁸For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“BROADCASTING TO CUBA

“For expenses necessary to enable the Broadcasting Board of Governors to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, and the Foreign Affairs Reform and Restructuring Act of 1998, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended: *Provided*, That funds may be used to purchase or lease, maintain, and operate such air-

(4) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,000,000 for the fiscal year 2000, and \$30,000,000 for the fiscal year 2001.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

SUBTITLE A—BASIC AUTHORITIES AND ACTIVITIES

SEC. 201.²⁹ OFFICE OF CHILDREN’S ISSUES.

(a) DIRECTOR REQUIREMENTS.—The Secretary of State shall fill the position of Director of the Office of Children’s Issues of the Department of State (in this section referred to as the “Office”) with an individual of senior rank who can ensure long-term continuity in the management and policy matters of the Office and has a strong background in consular affairs.

(b) CASE OFFICER STAFFING.—Effective April 1, 2000, there shall be assigned to the Office of Children’s Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 75.

(c) EMBASSY CONTACT.—The Secretary of State shall designate in each United States diplomatic mission an employee who shall serve as the point of contact for matters relating to international abductions of children by parents. The Director of the Office shall regularly inform the designated employee of children of United States citizens abducted by parents to that country.

(d) REPORTS TO PARENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), beginning 6 months after the date of enactment of this Act, and at least once every 6 months thereafter, the Secretary of State shall report to each parent who has requested assistance regarding an abducted child overseas. Each such report shall include information on the current status of the abducted child’s case and the efforts by the Department of State to resolve the case.

(2) EXCEPTION.—The requirement in paragraph (1) shall not apply in a case of an abducted child if—

(A) the case has been closed and the Secretary of State has reported the reason the case was closed to the parent who requested assistance; or

(B) the parent seeking assistance requests that such reports not be provided.

craft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-96), provided the following:

“BROADCASTING TO CUBA

“For necessary expenses to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.”

²⁹ 42 U.S.C. 11608a.

SEC. 202.³⁰ STRENGTHENING IMPLEMENTATION OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277) is amended—* * *

SEC. 203. REPORT CONCERNING ATTACK IN CAMBODIA.

Not later than 30 days after the date of the enactment of this Act, and one year thereafter unless the investigation referred to in this section is completed, the Secretary of State, in consultation with the Attorney General, shall submit a report to the appropriate congressional committees, in classified and unclassified form, containing the most current information on the investigation into the March 30, 1997, grenade attack in Cambodia.

SEC. 204.³¹ INTERNATIONAL EXPOSITIONS.

(a) **LIMITATION.**—Except as provided in subsection (b) and notwithstanding any other provision of law, the Department of State may not obligate or expend any funds appropriated to the Department of State for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose.

(b) **EXCEPTIONS.**—

(1) **IN GENERAL.**—The Department of State is authorized to utilize its personnel and resources to carry out the responsibilities of the Department for the following:

(A) Administrative services, including legal and other advice and contract administration, under section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)) related to United States participation in international fairs and expositions abroad. Such administrative services may not include capital expenses, operating expenses, or travel or related expenses (other than such expenses as are associated with the provision of administrative services by employees of the Department of State).

(B) Activities under section 105(f) of such Act with respect to encouraging foreign governments, international organizations, and private individuals, firms, associations, agencies and other groups to participate in international fairs and expositions and to make contributions to be utilized for United States participation in international fairs and expositions.

(C) Encouraging private support of United States pavilions and exhibits at international fairs and expositions.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this subsection authorizes the use of funds appropriated to the Department of State to make payments for—

(A) contracts, grants, or other agreements with any other party to carry out the activities described in this subsection; or

³⁰For amended text, see page 200.

³¹22 U.S.C. 2452b.

(B) the satisfaction of any legal claim or judgment or the costs of litigation brought against the Department of State arising from activities described in this subsection.

(c) NOTIFICATION.—No funds made available to the Department of State by any Federal agency to be used for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions may be obligated or expended unless the appropriate congressional committees are notified not less than 15 days prior to such obligation or expenditure.

(d) REPORTS.—The Commissioner General of a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions shall submit to the Secretary of State and the appropriate congressional committees a report concerning activities relating to such pavilion or exhibit every 180 days while serving as Commissioner General and shall submit a final report summarizing all such activities not later than 1 year after the closure of the pavilion or exhibit.

(e) REPEAL.—Section 230 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is repealed.³²

SEC. 205. RESPONSIBILITY OF THE AID INSPECTOR GENERAL FOR THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION.

(a) RESPONSIBILITIES.—Section 8A(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—* * *³³

(b) CONFORMING AMENDMENT.—* * *

SEC. 206. REPORT ON CUBAN DRUG TRAFFICKING.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an unclassified report (with a classified annex) on the extent of international drug trafficking through Cuba since 1990. The report shall include the following:

(1) Information concerning the extent to which the Cuban Government or any official, employee, or entity of the Government of Cuba has engaged in, facilitated, or condoned such trafficking.

(2) The extent to which agencies of the United States Government have investigated or prosecuted such activities.

(b) LIMITATION.—The report need not include information about isolated instances of conduct by low-level employees, except to the extent that such information may suggest improper conduct by more senior officials.

³²Sec. 230 of Public Law 103-236 stated, "Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose."

³³For amended text, see *Legislation on Foreign Relations Through 2001*, vol. IV.

SEC. 207.³⁴ REVISION OF REPORTING REQUIREMENT.

Section 3 of Public Law 102-1 is amended by striking “60 days” and inserting “90 days”.

SEC. 208. FOREIGN LANGUAGE PROFICIENCY.

(a)³⁵ REPORT ON LANGUAGE PROFICIENCY.—Section 702 of the Foreign Service Act of 1980 (22 U.S.C. 4022) is amended by adding at the end the following new subsection: * * *

(b) REPEAL.—Section 304(c) of the Foreign Service Act of 1980 (22 U.S.C. 3944(c)) is repealed.³⁶

SEC. 209. CONTINUATION OF REPORTING REQUIREMENTS.

(a) REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.—Section 2801(b)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “third” and inserting “seventh”.³⁷

(b) REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.—Section 2802(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “September 30, 1999,” and inserting “September 30, 2001.”³⁸

(c) RELATIONS WITH VIETNAM.—Section 2805 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “September 30, 1999,” and inserting “September 30, 2001.”³⁹

(d) REPORTS ON BALLISTIC MISSILE COOPERATION WITH RUSSIA.—Section 2705(d) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “and January 1, 2000,” and inserting “January 1, 2000, and January 1, 2001.”⁴⁰

(e)⁴¹ CONTINUATION OF REPORTS TERMINATED BY THE FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66; 31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

- (1) Section 1205 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 22 U.S.C. 2346 note) (relating to annual reports on economic conditions in Egypt, Israel, Turkey, and Portugal).

³⁴For amended text of the authorization of use of force against Iraq (Public Law 102-1), see page 2071.

³⁵For amended text, see page 634.

³⁶Sec. 304(c) of the Foreign Service Act of 1980 required “Within 6 months after assuming the position, the chief of mission to a foreign country shall submit...a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country.”

³⁷For amended text, see page 199.

³⁸For amended text, see page 200.

³⁹For amended text, see page 202.

⁴⁰For amended text, see page 2102.

⁴¹The Federal Reports Elimination and Sunset Act of 1995 may be found in *Legislation on Foreign Relations Through 2001*, vol. IV.

(2) Section 1307(f)(1)(A) of the International Financial Institutions Act (Public Law 95-118) (relating to an assessment of the environmental impact of proposed multilateral development bank actions).

(3) Section 118(f) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2151p-1) (relating to the protection of tropical forests).

(4) Section 586J(c)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) (relating to sanctions taken by other nations against Iraq).

(5) Section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1; 105 Stat. 3) (relating to the status of efforts to obtain Iraqi compliance with United Nations Security Council resolutions).

(6) Section 124 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 2680 note) (relating to expenditures for emergencies in the diplomatic and consular service).

(7) Section 620C(c) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2373(c)) (relating to progress made toward the conclusion of a negotiated solution to the Cyprus problem).

(8) Section 533(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) (relating to international natural resource management initiatives).

(9) Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 22 U.S.C. 5352) (relating to foreign treatment of United States financial institutions).

(10) Section 1702 of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262r-1) (relating to operating summaries of the multilateral development banks).

(11) Section 1303(c) of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262m-2(c)) (relating to international environmental assistance programs).

(12) Section 1701(a) of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262r) (relating to United States participation in international financial institutions).

(13) Section 163(a) of the Trade Act of 1974 (Public Law 93-618; 19 U.S.C. 2213) (relating to the trade agreements program and national trade policy agenda).

(14) Section 8 of the Export-Import Bank Act (Public Law 79-173; 12 U.S.C. 635g) (relating to Export-Import Bank activities).

(15) Section 407(f) of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 83-480; 7 U.S.C. 1736a) (relating to Public Law 480 programs and activities).

(16) Section 239(c) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2199(c)) (relating to OPIC audit report).

(17) Section 504(i) of the National Endowment for Democracy Act (Public Law 98-164; 22 U.S.C. 4413(i)) (relating to the activities of the National Endowment for Democracy).

(18) Section 5(b) of the Japan-United States Friendship Act (Public Law 94-118; 22 U.S.C. 2904(b)) (relating to Japan-United States Friendship Commission activities).

SEC. 210. JOINT FUNDS UNDER AGREEMENTS FOR COOPERATION IN ENVIRONMENTAL, SCIENTIFIC, CULTURAL AND RELATED AREAS.

Amounts made available to the Department of State for participation in joint funds under agreements for cooperation in environmental, scientific, cultural and related areas prior to fiscal year 1996 which, pursuant to express terms of such international agreements, were deposited in interest-bearing accounts prior to disbursement may earn interest, and interest accrued to such accounts may be used and retained without return to the Treasury of the United States and without further appropriation by Congress. The Department of State shall take action to ensure the complete and timely disbursement of appropriations and associated interest within joint funds covered by this section and final disposition of such agreements.

SEC. 211. REPORT ON INTERNATIONAL EXTRADITION.

(a) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall review extradition treaties and other agreements containing extradition obligations to which the United States is a party (only with regard to those treaties where the United States has diplomatic relations with the treaty partner) and submit a report to the appropriate congressional committees regarding United States extradition policy and practice.

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall—

(1) discuss the factors that contribute to failure of foreign nations to comply fully with their obligations under bilateral extradition treaties with the United States;

(2) discuss the factors that contribute to nations becoming “safe havens” for individuals fleeing the United States justice system;

(3) identify those bilateral extradition treaties to which the United States is a party which do not require the extradition of nationals, and the reason such treaties contain such a provision;

(4) discuss appropriate legislative and diplomatic solutions to existing gaps in United States extradition treaties and practice; and

(5) discuss current priorities of the United States for negotiation of new extradition treaties and renegotiation of existing treaties, including resource factors relevant to such negotiations.

SUBTITLE B—CONSULAR AUTHORITIES

SEC. 231. MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended * * *⁴²

SEC. 232.⁴³ FEES RELATING TO AFFIDAVITS OF SUPPORT.

(a) **AUTHORITY TO CHARGE FEE.**—The Secretary of State may charge and retain a fee or surcharge for services provided by the Department of State to any sponsor who provides an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) to ensure that such affidavit is properly completed before it is forwarded to a consular post for adjudication by a consular officer in connection with the adjudication of an immigrant visa. Such fee or surcharge shall be in addition to and separate from any fee imposed for immigrant visa application processing and issuance, and shall recover only the costs of such services not recovered by such fee.

(b) **LIMITATION.**—Any fee established under subsection (a) shall be charged only once to a sponsor or joint sponsors who file essentially duplicative affidavits of support in connection with separate immigrant visa applications from the spouse and children of any petitioner required by the Immigration and Nationality Act to petition separately for such persons.

(c) **TREATMENT OF FEES.**—Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing consular services.

(d) **COMPLIANCE WITH BUDGET ACT.**—Fees collected under the authority of subsection (a) shall be available only to such extent or in such amounts as are provided in advance in an appropriation Act.

SEC. 233.⁴⁴ PASSPORT FEES. * * ***SEC. 234.⁴⁵ DEATHS AND ESTATES OF UNITED STATES CITIZENS ABROAD. * * *****SEC. 235. DUTIES OF CONSULAR OFFICERS REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.**

Section 43 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715) is amended * * *⁴⁶

SEC. 236.⁴⁷ ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14.

(a) **IN GENERAL.**—

- (1) **REGULATIONS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall issue regulations providing that before a child under the age of 14 years is issued a passport the requirements under paragraph (2) shall apply under penalty of perjury.

⁴²For amended text, see page 227.

⁴³8 U.S.C. 1183a note.

⁴⁴Sec. 233 amended the Passport Act of June 4, 1920 (22 U.S.C. 214 and 216).

⁴⁵Sec. 234 repealed sec. 1709 of the Revised Statutes (22 U.S.C. 4195) and added new secs. 43A and 43B to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715b and 2715c); see beginning at page 71.

⁴⁶For amended text, see page 71.

⁴⁷22 U.S.C. 213 note.

(2) REQUIREMENTS.—

(A) Both parents, or the child's legal guardian, must execute the application and provide documentary evidence demonstrating that they are the parents or guardian; or

(B) the person executing the application must provide documentary evidence that such person—

(i) has sole custody of the child;

(ii) has the consent of the other parent to the issuance of the passport; or

(iii) is in loco parentis and has the consent of both parents, of a parent with sole custody over the child, or of the child's legal guardian, to the issuance of the passport.

(b) EXCEPTIONS.—The regulations required by subsection (a) may provide for exceptions in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary determines that issuance of a passport is warranted by special family circumstances.

SEC. 237.⁴⁸ PROCESSING OF VISA APPLICATIONS.

(a) POLICY.—It shall be the policy of the Department of State to process immigrant visa applications of immediate relatives of United States citizens and nonimmigrant K-1 visa applications of fiances of United States citizens within 30 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service. In the case of an immigrant visa application where the sponsor of such applicant is a relative other than an immediate relative, it should be the policy of the Department of State to process such an application within 60 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service.

(b) REPORTS.—Not later than 180 days after the date of enactment of this Act, and not later than 1 year thereafter, the Secretary of State shall submit to the appropriate congressional committees a report on the extent to which the Department of State is meeting the policy standards under subsection (a). Each report shall be based on a survey of the 22 consular posts which account for approximately 72 percent of immigrant visas issued and, in addition, the consular posts in Guatemala City, Nicosia, Caracas, Naples, and Jakarta. Each report should include data on the average time for processing each category of visa application under subsection (a), a list of the embassies and consular posts which do not meet the policy standards under subsection (a), the amount of funds collected worldwide for processing of visa applications during the most recent fiscal year, the estimated costs of processing such visa applications (based on the Department of State's most recent fee study), the steps being taken by the Department of State to achieve such policy standards, and results achieved by the inter-agency working group charged with the goal of reducing the overall processing time for visa applications.

⁴⁸ 8 U.S.C. 1201 note.

SEC. 238. FEASIBILITY STUDY ON FURTHER PASSPORT RESTRICTIONS ON INDIVIDUALS IN ARREARS ON CHILD SUPPORT.

(a) **REPORT TO CONGRESS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Health and Human Services, shall submit a report to the appropriate congressional committees, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate on the feasibility of decreasing the amount of an individual's arrearages of child support that would require the Secretary of State to refuse to issue a passport to such individual, or otherwise act with respect to such an individual, as provided under section 452(k) of the Social Security Act (42 U.S.C. 652(k)).

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall include the following:

(1) The estimated cost to the Department of State of reducing the arrearage amount which would result in a refusal to issue a passport to \$2,500 and, in addition, an amount between \$5,000 and \$2,500.

(2) A projection of the estimated benefits of reducing the amount to \$2,500 (or an amount between \$5,000 and \$2,500), which shall include an estimate of the additional numbers of individuals who would be subject to denial, an estimate of the additional child support arrearages that would be received through such a reduction, and an estimate of the amount of child support that would be paid earlier than under current law (together with an estimate of how much earlier such amounts would be paid).

(3) Information regarding the number of individuals with child support arrearages over \$2,500 and the average length of time it takes for individuals to reach \$2,500 in arrearages.

(4) The methodology for the cost estimates and benefit projections described in paragraphs (1) and (2).

SUBTITLE C—REFUGEES**SEC. 251.⁴⁹ UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.**

(a) **IN GENERAL.**—None of the funds made available by this Act or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) **MIGRATION AND REFUGEE ASSISTANCE.**—None of the funds made available by this Act or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be avail-

⁴⁹22 U.S.C. 2601 note.

able to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) **INVOLUNTARY RETURN DEFINED.**—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

SEC. 252. HUMAN RIGHTS REPORTS.

Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended * * *⁵⁰

SEC. 253.⁵¹ GUIDELINES FOR REFUGEE PROCESSING POSTS. * * *

SEC. 254.⁵² GENDER-RELATED PERSECUTION TASK FORCE.

(a) **ESTABLISHMENT OF TASK FORCE.**—The Secretary of State, in consultation with the Attorney General and other appropriate Federal agencies, shall establish a task force with the goal of determining eligibility guidelines for women seeking refugee status overseas due to gender-related persecution.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report outlining the guidelines determined by the task force under subsection (a).

SEC. 255. ELIGIBILITY FOR REFUGEE STATUS.

(a) **ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.**—For purposes of eligibility for in-country refugee processing for nationals of Vietnam during fiscal years 2000 and 2001, an alien described in subsection (b) or (d) shall be considered to be a refugee of special humanitarian concern to the United States (within the meaning of section 207 of the Immigration and Nationality Act (8 USC 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) **ALIENS COVERED.**—An alien described in this subsection is an alien who—

- (1) is the son or daughter of a qualified national;
- (2) is 21 years of age or older; and
- (3) was unmarried as of the date of acceptance of the alien’s parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) **QUALIFIED NATIONAL.**—The term “qualified national” in subsection (b)(1) means a national of Vietnam who—

⁵⁰For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁵¹Sec. 253 amended sec. 602(c) of the International Religious Freedom Act of 1998 (Public Law 105-292); see page 1106.

⁵²8 U.S.C. 1157 note.

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) except as provided in subsection (d), on or after April 1, 1995, is or has been accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam.

(d) PREVIOUS DENIALS BASED ON LACK OF CO-RESIDENCY.—An alien who is otherwise qualified under subsection (b) is eligible for admission for resettlement regardless of the date of acceptance of the alien's parent if the alien previously was denied refugee resettlement based solely on the fact that the alien was not listed continuously on the parent's residence permit.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

SUBTITLE A—ORGANIZATION MATTERS

SEC. 301. LEGISLATIVE LIAISON OFFICES OF THE DEPARTMENT OF STATE.

(a) DEVELOPMENT OF ASSESSMENT.—The Secretary of State shall assess the administrative and personnel requirements for the establishment of legislative liaison offices for the Department of State within the office buildings of the House of Representatives and the Senate. In undertaking the assessment, the Secretary should examine existing liaison offices of other executive departments that are located in the congressional office buildings, including the liaison offices of the military services.

(b) ASSESSMENT CONSIDERATIONS.—The assessment required by subsection (a) shall consider—

(1) space requirements;

(2) cost implications;

(3) personnel structure; and

(4) the feasibility of modifying the Pearson Fellowship program in order to have members of the Foreign Service who serve in such fellowships serve a second year in a legislative liaison office.

(c) TRANSMITTAL OF ASSESSMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on International Relations and the Committee on House Administration of the House of Representatives and the Committee on Foreign Relations and the Committee on

Rules and Administration of the Senate the assessment developed under subsection (a).

SEC. 302.⁵³ STATE DEPARTMENT OFFICIAL FOR NORTHEASTERN EUROPE.

The Secretary of State shall designate a senior-level official of the Department of State with responsibility for promoting regional cooperation in and coordinating United States policy toward North-eastern Europe.

SEC. 303.⁵³ SCIENCE AND TECHNOLOGY ADVISER TO SECRETARY OF STATE.

(a) DESIGNATION.—The Secretary of State shall designate a senior-level official of the Department of State as the Science and Technology Adviser to the Secretary of State (in this section referred to as the “Adviser”). The Adviser shall have substantial experience in the area of science and technology. The Adviser shall report to the Secretary of State through the appropriate Under Secretary of State.

(b) DUTIES.—The Adviser shall—

(1) advise the Secretary of State, through the appropriate Under Secretary of State, on international science and technology matters affecting the foreign policy of the United States; and

(2) perform such duties, exercise such powers, and have such rank and status as the Secretary of State shall prescribe.

SEC. 304. APPLICATION OF CERTAIN LAWS TO PUBLIC DIPLOMACY FUNDS.

Section 1333(c) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended—* * *⁵⁴

SEC. 305.⁵⁵ REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) ADDITIONAL RESOURCES.—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the amounts made available to the Department of State under section 101(2), \$18,000,000 shall be made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

(b) IMPROVEMENT OF DTS-PO.—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is under-

⁵³ 22 U.S.C. 2651a note.

⁵⁴ For amended text, see page 759.

⁵⁵ 22 U.S.C. 2669a note.

taken by United States citizens who have received appropriate security clearances;

(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assignments shall be adjusted in the customary manner.

(c) **REPORT ON IMPROVING MANAGEMENT.**—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate the Director's plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

(d) **FUNDING OF DTS-PO.**—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

SUBTITLE B—PERSONNEL OF THE DEPARTMENT OF STATE ⁵⁶

SEC. 321. AWARD OF FOREIGN SERVICE STAR.

The State Department Basic Authorities Act of 1956 is amended by inserting after section 36 (22 U.S.C. 2708) the following new section: * * * ⁵⁷

* * * * *

SEC. 324. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.

The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

(1) The number of members of the Senior Foreign Service.

⁵⁶Secs. 322, 323, 326-333 amended the Foreign Service Act of 1980. See beginning at page 587.

⁵⁷Sec. 321 added a new sec. 36A to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708a). See page 63.

(2) The number of vacant positions designated for members of the Senior Foreign Service.

(3) The number of members of the Senior Foreign Service who are not assigned to positions.

SEC. 325. REPORT ON MANAGEMENT TRAINING.

Not later than April 1, 2000, the Department of State shall report to the appropriate congressional committees on the feasibility of modifying current training programs and curricula so that the Department can provide significant and comprehensive management training at all career grades for Foreign Service personnel.

* * * * *

SEC. 334. TREATMENT OF CERTAIN PERSONS REEMPLOYED AFTER SERVICE WITH INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Title 5 of the United States Code is amended by inserting after section 8432b the following new section: * * *⁵⁸

SEC. 335. TRANSFER ALLOWANCE FOR FAMILIES OF DECEASED FOREIGN SERVICE PERSONNEL.

Section 5922 of title 5, United States Code, is amended by adding at the end the following: * * *⁵⁹

SEC. 336. PARENTAL CHOICE IN EDUCATION.

Section 5924(4) of title 5, United States Code, is amended—* * *⁶⁰

SEC. 337. MEDICAL EMERGENCY ASSISTANCE.

Section 5927 of title 5, United States Code, is amended to read as follows: * * *⁶¹

SEC. 338.⁶² REPORT CONCERNING FINANCIAL DISADVANTAGES FOR ADMINISTRATIVE AND TECHNICAL PERSONNEL.

(a) FINDINGS.—Congress finds that administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State should submit a report to the appropriate congressional committees concerning the extent to which administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status, including proposals to alleviate such disadvantages.

SEC. 339. STATE DEPARTMENT INSPECTOR GENERAL AND PERSONNEL INVESTIGATIONS.

(a) AMENDMENT OF THE FOREIGN SERVICE ACT OF 1980.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(5) INVESTIGATIONS.—

“(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

⁵⁸ See 5 U.S.C. 8432c.

⁵⁹ See 5 U.S.C. 5922(f).

⁶⁰ See 5 U.S.C. 5924(4).

⁶¹ See 5 U.S.C. 5927.

⁶² 22 U.S.C. 2656 note.

“(i) abide by professional standards applicable to Federal law enforcement agencies; and

“(ii) make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

“(B) FINAL REPORTS OF INVESTIGATIONS.—In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

“(i) make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person’s actions;

“(ii) include in every final report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.”

(b) ANNUAL REPORT.—Section 209(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(2)) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.”

(c)⁶³ STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

(3) the Privacy Act of 1974 (5 U.S.C. 552a);

(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection);

(5) rule 6(e) of the Federal Rules of Criminal Procedure (relating to the protection of grand jury information); or

(6) any statute or executive order pertaining to the protection of classified information.

(d)⁶³ NO GRIEVANCE OR RIGHT OF ACTION.—A failure to comply with the amendments made by this section shall not give rise to any private right of action in any court or to an administrative complaint or grievance under any law.

(e)⁶³ EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.

⁶³22 U.S.C. 3929 note.

SEC. 340. STUDY OF COMPENSATION FOR SURVIVORS OF TERRORIST ATTACKS OVERSEAS.

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees on the benefits and compensation paid to the survivors and personal representatives of the United States Government employees (including those in the uniformed services and Foreign Service National employees) killed in the performance of duty abroad as result of terrorist acts. All appropriate United States Government agencies shall contribute to the preparation of the report. The report shall include a comparison of benefits available to military and civilian employees and should include any recommendations for additional or other types of benefits or compensation.

SEC. 341. PRESERVATION OF DIVERSITY IN REORGANIZATION.

Section 1613(c) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by inserting after the first sentence the following * * *⁶⁴

TITLE IV—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS⁶⁵

* * * * *

TITLE V—UNITED STATES INTERNATIONAL
BROADCASTING ACTIVITIES⁶⁵

TITLE VI—EMBASSY SECURITY AND COUNTERTERRORISM
MEASURES⁶⁶

* * * * *

TITLE VII—INTERNATIONAL ORGANIZATIONS AND
COMMISSIONS

SUBTITLE A—INTERNATIONAL ORGANIZATIONS OTHER THAN THE
UNITED NATIONS

SEC. 701. CONFORMING AMENDMENTS TO REFLECT REDESIGNATION OF CERTAIN INTERPARLIAMENTARY GROUPS.

(a) **TRANSATLANTIC LEGISLATORS' DIALOGUE.**—Section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 276 note) is amended by striking “United States-European Community Interparliamentary Group” and inserting “Transatlantic Legislators’ Dialogue (United States-European Union Interparliamentary Group)”.

(b) **NATO PARLIAMENTARY ASSEMBLY—**

(1) **IN GENERAL.**—The joint resolution entitled “Joint Resolution to authorize participation by the United States in par-

⁶⁴ For amended text, see page 770.

⁶⁵ For titles IV and V, relating to U.S. informational, educational, and cultural programs, and U.S. international broadcasting activities, see beginning at page 1266.

⁶⁶ Title VI, relating to embassy security and counterterrorism, may be found beginning at page 951.

liamentary conferences of the North Atlantic Treaty Organization”, approved July 11, 1956 (22 U.S.C. 1928a et seq.), is amended in sections 2, 3, and 4 (22 U.S.C. 1928b, 1928c, and 1928d, respectively) by striking “North Atlantic Assembly” each place it appears and inserting “NATO Parliamentary Assembly”.

(2) CONFORMING AMENDMENT.—Section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c-1) is amended by striking “North Atlantic Assembly” and inserting “NATO Parliamentary Assembly”.

(3) REFERENCES.—In the case of any provision of law having application on or after May 31, 1999 (other than a provision of law specified in subparagraphs (A) or (B)), any reference contained in that provision to the North Atlantic Assembly shall, on and after that date, be considered to be a reference to the NATO Parliamentary Assembly.

SEC. 702.⁶⁷ AUTHORITY OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION TO ASSIST STATE AND LOCAL GOVERNMENTS.

(a) AUTHORITY.—The Commissioner of the United States section of the International Boundary and Water Commission may provide technical tests, evaluations, information, surveys, or others similar services to State or local governments upon the request of such State or local government on a reimbursable basis.

(b) REIMBURSEMENTS.—Reimbursements shall be paid in advance of the goods or services ordered and shall be for the estimated or actual cost as determined by the United States section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance shall be made as determined by the United States section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided. Reimbursements received by the United States section of the International Boundary and Water Commission for providing services under this section shall be credited to the appropriation from which the cost of providing the services is charged.

SEC. 703. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

Section 2(b) of the American-Mexican Chamizal Convention Act of 1964 (Public Law 88-300; 22 U.S.C. 277d-18(b)) is amended by inserting “operations, maintenance, and” after “cost of”.

SEC. 704.⁶⁸ SEMIANNUAL REPORTS ON UNITED STATES SUPPORT FOR MEMBERSHIP OR PARTICIPATION OF TAIWAN IN INTERNATIONAL ORGANIZATIONS.

(a) REPORTS REQUIRED.—Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter for fiscal years 2000 and 2001, the Secretary of State shall submit to Congress a report in a classified and unclassified manner on the status of efforts by the United States Government to support—

(1) the membership of Taiwan in international organizations that do not require statehood as a prerequisite to such membership; and

⁶⁷ 22 U.S.C. 277h.

⁶⁸ 22 U.S.C. 3303 note.

(2) the appropriate level of participation by Taiwan in international organizations that may require statehood as a prerequisite to full membership.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall—

(1) set forth a comprehensive list of the international organizations in which the United States Government supports the membership or participation of Taiwan;

(2) describe in detail the efforts of the United States Government to achieve the membership or participation of Taiwan in each organization listed; and

(3) identify the obstacles to the membership or participation of Taiwan in each organization listed, including a list of any governments that do not support the membership or participation of Taiwan in each such organization.

SEC. 705.⁶⁹ RESTRICTION RELATING TO UNITED STATES ACCESSION TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION.—The United States shall not become a party to the International Criminal Court except pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(b) PROHIBITION.—None of the funds authorized to be appropriated by this or any other Act may be obligated for use by, or for support of, the International Criminal Court unless the United States has become a party to the Court pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(c) INTERNATIONAL CRIMINAL COURT DEFINED.—In this section, the term “International Criminal Court” means the court established by the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

SEC. 706.⁶⁹ PROHIBITION ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION ON EXTRADITION.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign country that is under an obligation to surrender persons to the International Criminal Court unless that foreign country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) PROHIBITION ON CONSENT TO EXTRADITION BY THIRD COUNTRIES.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country to a third country that is under an obligation to surrender persons to the International Criminal Court, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other

⁶⁹ 22 U.S.C. 262-1 note.

satisfactory assurances to the United States that the third country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—In this section, the term “International Criminal Court” has the meaning given the term in section 705(c) of this Act.

SEC. 707. REQUIREMENT FOR REPORTS REGARDING FOREIGN TRAVEL.

Section 2505 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277) is amended—* * *⁷⁰

SEC. 708. UNITED STATES REPRESENTATION AT THE INTERNATIONAL ATOMIC ENERGY AGENCY.

(a) AMENDMENT TO THE UNITED NATIONS PARTICIPATION ACT OF 1945.—Section 2(h) of the United Nations Participation Act of 1945 (22 U.S.C. 287(h)) is amended by adding at the end the following new sentence: * * *⁷¹

(b) AMENDMENT TO THE IAEA PARTICIPATION ACT OF 1957.—Section 2(a) of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2021(a)) is amended by adding at the end the following new sentence: * * *⁷²

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to individuals appointed on or after the date of enactment of this Act.

SUBTITLE B—UNITED NATIONS ACTIVITIES⁷³

SEC. 721.⁷⁴ UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS.

(a) CONGRESSIONAL STATEMENT.—It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs.

(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—It shall be the policy of the United States to seek the abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

(c) ANNUAL REPORTS.—On January 15 of each year, the Secretary of State shall submit a report to the appropriate congressional committees (in classified or unclassified form as appropriate) on—

⁷⁰ For amended text, see page 197.

⁷¹ For amended text, see page 2209.

⁷² For amended text, see page 1904.

⁷³ See also legislation pertaining to the United Nations and other international organizations, beginning at page 2205.

⁷⁴ 22 U.S.C. 287 note.

(1) actions taken by representatives of the United States to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations; and

(3) steps taken by the United States under subsection (b) to secure abolition by the United Nations of groups described in that subsection.

(d) ANNUAL CONSULTATION.—At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

SEC. 722. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

Chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2348 et seq.) is amended by adding at the end the following:
* * * 75

SEC. 723. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:
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SEC. 724. CODIFICATION OF REQUIRED NOTICE OF PROPOSED UNITED NATIONS PEACEKEEPING OPERATIONS. * * * 77

TITLE VIII—MISCELLANEOUS PROVISIONS

SUBTITLE A—GENERAL PROVISIONS

SEC. 801.⁷⁸ DENIAL OF ENTRY INTO UNITED STATES OF FOREIGN NATIONALS ENGAGED IN ESTABLISHMENT OR ENFORCEMENT OF FORCED ABORTION OR STERILIZATION POLICY.

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law, the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any foreign national whom the Secretary finds, based on credible and specific information, to have been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice or forcing a man or woman to undergo sterilization against his or her free choice, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such policies.

⁷⁵Sec. 722 added a new sec. 554 to the Foreign Assistance Act of 1961. See *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁷⁶Sec. 723 added a new sec. 10 to the United Nations Participation Act of 1945. See page 2221.

⁷⁷Subsec. (a) and (b) of this sec. amended sec. 4 of the United Nations Participation Act of 1945; for amended text see page 2210. Sec. 724(a)(2) repealed sec. 407(a) of Public Law 103-236, relating to consultations and reports to Congress on U.N. peacekeeping operations.

⁷⁸8 U.S.C. 1182e.

(b) EXCEPTIONS.—The prohibitions in subsection (a) shall not apply in the case of a foreign national who is a head of state, head of government, or cabinet level minister.

(c) WAIVER.—The Secretary of State may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 802. TECHNICAL CORRECTIONS.

(a) Section 1422(b)(3)(B) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105-277; 112 Stat. 2681-792) is amended by striking “divisionAct” and inserting “division”.

(b) Section 1002(a) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105-277; 112 Stat. 2681-762) is amended by striking paragraph (3).

(c) The table of contents of division G of Public Law 105-277 (112 Stat. 2681-762) is amended by striking “DIVISION__” and inserting “DIVISION G”.

(d) Section 305 of Public Law 97-446 (19 U.S.C 2604) is amended in the first sentence by striking “Secretary” the first place it appears and inserting “Secretary, in consultation with the Secretary of State.”

SEC. 803. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than each of the dates specified in paragraph (2), the Secretary of State shall submit a report to the appropriate congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure that a free, fair, and transparent referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by July 2000.

(2) DEADLINES FOR SUBMISSION OF REPORTS.—The dates referred to in paragraph (1) are January 1, 2000, and June 1, 2000.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of preparations for the referendum, including the extent to which free access to the territory for independent international organizations, including election observers and international media, will be guaranteed;

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by July 2000;

(3) an assessment of the likelihood that the July 2000 date will be met;

(4) a description of obstacles, if any, to the voter registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles; and

(5) an assessment of progress being made in the repatriation process.

SEC. 804. REPORTING REQUIREMENTS UNDER PLO COMMITMENTS COMPLIANCE ACT OF 1989.

The PLO Commitments Compliance Act of 1989 is amended
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SEC. 805.⁸⁰ REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter until October 1, 2001, the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

(2) A list of terrorist attacks, occurring between September 13, 1993 and the date of the report, against United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

(A) a list of all citizens of the United States killed or injured in such attacks;

(B) the date of each attack and the total number of people killed or injured in each attack;

(C) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;

(D) a list of suspects implicated in each attack and the nationality of each suspect, including information on—

(i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;

(ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and

(iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.

(3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—

(A) the date each suspect was incarcerated;

(B) whether any suspects have been released, the date of such release, and whether any released suspect was implicated in subsequent acts of terrorism; and

(C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.

(4) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including

⁷⁹ For amended text, see page 379.

⁸⁰ 22 U.S.C. 2656f note.

any information on whether a reward has been posted for suspects involved in terrorist attacks listed in the report.

(5) A list of each request by the United States for assistance in investigating terrorist attacks listed in the report, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel since September 13, 1993, and the response to each request from the Palestinian Authority and Israel.

(6) A description of efforts made by United States officials since September 13, 1993 to bring to justice perpetrators of terrorist acts against United States citizens as listed in the report.

(7) A list of any terrorist suspects in these cases who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.

(8) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1950 and September 13, 1993, to include in each case, where such information is reasonably available, any stated claim of responsibility and the resolution or disposition of each case, except that this list shall be submitted only once with the initial report required under this section unless additional relevant information on these cases becomes available.

(b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests or jeopardize ongoing criminal investigations or proceedings.

(c) INITIAL REPORT.—Except as provided in subsection (a)(8), the initial report filed under this section shall cover the period between September 13, 1993 and the date of the report.

SEC. 806. ANNUAL REPORTING ON WAR CRIMES, CRIMES AGAINST HUMANITY, AND GENOCIDE. * * *⁸¹

SUBTITLE B—NORTH KOREA THREAT REDUCTION

SEC. 821. SHORT TITLE.

This subtitle may be cited as the “North Korea Threat Reduction Act of 1999”.

SEC. 822. RESTRICTIONS ON NUCLEAR COOPERATION WITH NORTH KOREA.

(a) IN GENERAL.—Notwithstanding any other provision of law or any international agreement, no agreement for cooperation (as defined in sec. 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 b.)) between the United States and North Korea may become effective, no license may be issued for export directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such

⁸¹Sec. 806 amended secs. 116 and 502B of the Foreign Assistance Act of 1961; see *Legislation on Foreign Relations Through 2001*, vol. I-A.

agreement, and no approval may be given for the transfer or re-transfer directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, until the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

(2) North Korea has permitted the IAEA full access to all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea's initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea;

(3) North Korea is in full compliance with its obligations under the Agreed Framework;

(4) North Korea has consistently taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization (excluding in the case of numbered paragraph 3 facilities frozen pursuant to the Agreed Framework);

(5) North Korea does not have uranium enrichment or nuclear reprocessing facilities (excluding facilities frozen pursuant to the Agreed Framework), and is making no significant progress toward acquiring or developing such facilities;

(6) North Korea does not have nuclear weapons and is making no significant effort to acquire, develop, test, produce, or deploy such weapons; and

(7) the transfer to North Korea of key nuclear components, under the proposed agreement for cooperation with North Korea and in accordance with the Agreed Framework, is in the national interest of the United States.

(b) CONSTRUCTION.—The restrictions contained in subsection (a) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

SEC. 823. DEFINITIONS.

In this subtitle:

(1) AGREED FRAMEWORK.—The term “Agreed Framework” means the “Agreed Framework Between the United States of America and the Democratic People's Republic of Korea”, signed in Geneva on October 21, 1994, and the Confidential Minute to that Agreement.

(2) IAEA.—The term “IAEA” means the International Atomic Energy Agency.

(3) NORTH KOREA.—The term “North Korea” means the Democratic People's Republic of Korea.

(4) JOINT DECLARATION ON DENUCLEARIZATION.—The term “Joint Declaration on Denuclearization” means the Joint Declaration on the Denuclearization of the Korean Peninsula,

issued by the Republic of Korea and the Democratic People's Republic of Korea on January 1, 1992.

SUBTITLE C—PEOPLE'S REPUBLIC OF CHINA

SEC. 871. FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the conclusions of the Department of State, as set forth in the Country Reports on Human Rights Practices for 1998, on human rights in the People's Republic of China in 1998 as follows:

(A) "The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. . . . Citizens lack both the freedom peacefully to express opposition to the party-led political system and the right to change their national leaders or form of government."

(B) "The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities' very limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms."

(C) "Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process."

(D) "Prison conditions at most facilities remained harsh. . . . The Government infringed on citizens' privacy rights. The Government continued restrictions on freedom of speech and of the press, and tightened these toward the end of the year. The Government severely restricted freedom of assembly, and continued to restrict freedom of association, religion, and movement."

(E) "Discrimination against women, minorities, and the disabled; violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution, trafficking in women and children, and the abuse of children all are problems."

(F) "The Government continued to restrict tightly worker rights, and forced labor remains a problem."

(G) "Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified."

(H) "Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference and repression."

(I) "Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human

rights instruments for peacefully expressing their political, religious, or social views.”.

(2) In addition to the State Department, credible press reports and human rights organizations have documented an intense crackdown on political activists by the Government of the People’s Republic of China, involving the harassment, detainment, arrest, and imprisonment of dozens of activists.

(3) The People’s Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(4) The People’s Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is a signatory to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights.

SEC. 872. FUNDING FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO REPORT ON POLITICAL, ECONOMIC, AND HUMAN RIGHTS MATTERS IN THE PEOPLE’S REPUBLIC OF CHINA.

Of the amounts authorized to be appropriated for the Department of State by this Act, \$2,200,000 for fiscal year 2000 and \$2,200,000 for fiscal year 2001 shall be made available only to support additional personnel in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, in order to monitor political and social conditions, with particular emphasis on respect for, and violations of, internationally recognized human rights, in the People’s Republic of China.

SEC. 873.⁸² PRISONER INFORMATION REGISTRY FOR THE PEOPLE’S REPUBLIC OF CHINA.

(a) **REQUIREMENT.**—The Secretary of State shall establish and maintain a registry which shall, to the extent practicable, provide information on all political prisoners, prisoners of conscience, and prisoners of faith in the People’s Republic of China. The registry shall be known as the “Prisoner Information Registry for the People’s Republic of China”.

(b) **INFORMATION IN REGISTRY.**—The registry required by subsection (a) shall include information on the charges, judicial processes, administrative actions, uses of forced labor, incidents of torture, lengths of imprisonment, physical and health conditions, and other matters associated with the incarceration of prisoners in the People’s Republic of China referred to in that subsection.

(c) **AVAILABILITY OF FUNDS.**—The Secretary may make a grant to nongovernmental organizations currently engaged in monitoring activities regarding political prisoners in the People’s Republic of China in order to assist in the establishment and maintenance of the registry required by subsection (a).

⁸² 22 U.S.C. 2656 note.

TITLE IX—ARREARS PAYMENTS AND REFORM

SUBTITLE A—GENERAL PROVISIONS

SEC. 901. SHORT TITLE.

This title may be cited as the “United Nations Reform Act of 1999”.⁸³

* * * * *

DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS

SEC. 1001. SHORT TITLE.

This division may be cited as the “Arms Control, Nonproliferation, and Security Assistance Act of 1999”.⁸⁴

* * * * *

⁸³For the United Nations Reform Act of 1999, see page 2224.

⁸⁴The Arms Control, Nonproliferation, and Security Assistance Act of 1999 includes the Arms Control and Nonproliferation Act of 1999, National Security and Corporate Fairness under the Biological Weapons Convention Act, and the Proliferation Prevention Enhancement Act of 1999, all of which may be found in the arms control section, beginning at page 1543.

The Arms Control, Nonproliferation, and Security Assistance Act of 1999 also includes the Security Assistance Act of 1999, Defense Offsets Disclosure Act of 1999, and International Arms Sales Code of Conduct Act of 1999, all of which may be found in *Legislation on Foreign Relations Through 2001*, vol. I-A.

f. Rewards for Information Concerning Violations of International Humanitarian Law—Former Yugoslavia and Rwanda

Partial text of Public Law 105-323 [H.R. 4660], 112 Stat. 3029, approved October 30, 1998; amended by Public Law 106-277 [S. 2460], 114 Stat. 813, approved October 2, 2000

AN ACT To amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes.

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

TITLE I—DEPARTMENT OF STATE REWARDS PROGRAM

SEC. 101. REVISION OF PROGRAM.

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows: * * *¹

SEC. 102.² REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA OR RWANDA.

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

(1) the arrest or conviction in any country; or

(2) the transfer to, or conviction by, the International Criminal Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda,³ of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

(b) **PROCEDURES.**—

(1) To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, subject to paragraph (3), the offering, administration, and payment of rewards under this section, including procedures for—

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

¹For amended text see page 59.

²22 U.S.C. 2708 note. Sec. 1(1) of Public Law 106-277 (114 Stat. 813) added “**OR RWANDA**” to the section catchline.

³Sec. 1(2) of Public Law 106-277 (114 Stat. 813) added “or the International Criminal Tribunal for Rwanda” after “Yugoslavia”.

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

(D) the receipt and analysis of data; and

(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

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

(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

(c) REFERENCE.—(1)⁴ For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

(2)⁴ For the purposes of subsection (a), the statute of the International Criminal Tribunal for Rwanda means the statute contained in the annex to Security Council Resolution 955 of November 8, 1994.

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

(e) PRIORITY.—Rewards under this section may be paid from funds authorized to carry out section 36 of the State Department Basic Authorities Act of 1956. In the Administration and payment of rewards under the rewards program of section 36 of the State Department Basic Authorities Act of 1956, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 of that Act and that funds paid under this section are paid only after any and all due and payable demands are met under section 36 of that Act.

(f) REPORTS.—The Secretary shall inform the appropriate committees of rewards paid under this section in the same manner as required by section 36(g) of the State Department Basic Authorities Act of 1956.

TITLE II—EXTRADITION TREATIES INTERPRETATION ACT OF 1998⁵

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⁴Sec. 1(3) of Public Law 106–277 (114 Stat. 813) inserted para. designation “(1)”, and added a new para. (2).

⁵For text, see page 2308.

**g. Foreign Relations Authorization Act, Fiscal Years 1998
and 1999**

Partial text of Public Law 105-277 [Omnibus Consolidated and emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998; amended by Public law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427], 113 Stat. 1536, approved November 29, 1999

**DIVISION G—FOREIGN AFFAIRS REFORM AND
RESTRUCTURING ACT OF 1998**

SEC. 1001.¹ SHORT TITLE.

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.

(a)² DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

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

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¹22 U.S.C. 6501 note.
²Sec. 802(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out para. (3) of this subsec., which had referred to a subdivision K—United Nations Reform Act of 1998.

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SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

TITLE XX—GENERAL PROVISIONS

SEC. 2001.³ SHORT TITLE.

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

SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this subdivision, the term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE

SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.

The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

- (1)⁴ **DIPLOMATIC AND CONSULAR PROGRAMS.**—For “Diplomatic and Consular Programs”, of the Department of State

³ 22 U.S.C. 2651 note.

⁴ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Sen-

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\$1,730,000,000 for the fiscal year 1998 and \$1,644,300,000 for the fiscal year 1999.

ate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; \$1,705,600,000: *Provided*, That of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the 'Emergencies in the Diplomatic and Consular Service' appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), fees may be collected during fiscal years 1998 and 1999 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 1998 and 1999 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

"In addition to funds otherwise available, of the funds provided under this heading, \$24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and \$17,312,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended.

"In addition, not to exceed \$700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended, and in addition, as authorized by section 5 of such Act \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed \$15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

"Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts 'Diplomatic and Consular Programs' and 'Salaries and Expenses' under the heading 'Administration of Foreign Affairs' may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

"In addition, for counterterrorism requirements overseas, including security guards and equipment, \$23,700,000, to remain available until expended."

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-92), provided the following:

"DIPLOMATIC AND CONSULAR PROGRAMS

"For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration, \$1,644,300,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the 'Emergencies in the Diplomatic and Consular Service' appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, \$500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), fees may be collected during fiscal years 1999 and 2000 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 1999 and 2000 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

"In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

"Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts 'Diplomatic and Consular Programs' and 'Salaries and Expenses' under the heading 'Administration of Foreign Affairs' may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section."

(2)⁵ SALARIES AND EXPENSES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For “Salaries and Expenses”, of the Department of State \$363,513,000 for the fiscal year 1998 and \$355,000,000 for the fiscal year 1999.

(B) LIMITATIONS.—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for the recruitment of minorities for careers in the Foreign Service and international affairs.

(3)⁶ CAPITAL INVESTMENT FUND.—For “Capital Investment Fund”, of the Department of State \$86,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999.

(4)⁷ SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.—For “Security and Maintenance of United States Missions”, \$404,000,000 for the fiscal year 1998 and \$403,561,000 for the fiscal year 1999.

(5)⁸ REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,200,000 for the fiscal year 1998 and \$4,350,000 for the fiscal year 1999.

(6)⁹ EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$5,500,000 for the fiscal year 1998 and \$5,500,000 for the fiscal year 1999.

(7)¹⁰ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$27,495,000 for the fiscal year 1998 and \$27,495,000 for the fiscal year 1999.

⁵ For fiscal year 1998, the Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided \$363,513,000 for “Salaries and Expenses”.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-93), provided \$355,000,000 for “Salaries and Expenses”, of which \$813,333, “shall be transferred to the Presidential Advisory Commission on Holocaust Assets in the United States”.

⁶ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2495), provided \$86,000,000 for the “Capital Investment Fund” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-93), provided \$80,000,000.

⁷ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$404,000,000 for “Security and Maintenance of United States Missions” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$403,561,000.

⁸ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided \$4,200,000 for “Representation Allowances” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$4,350,000.

⁹ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$5,500,000 for “Emergencies in the Diplomatic and Consular Service” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$5,500,000.

¹⁰ The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2495), provided \$27,495,000 for “Office of Inspector General” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$27,495,000.

(8)¹¹ PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$14,000,000 for the fiscal year 1998 and \$14,750,000 for the fiscal year 1999.

(9)¹² PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—(A) For “Protection of Foreign Missions and Officials”, \$7,900,000 for the fiscal year 1998 and \$8,100,000 for the fiscal year 1999.

(B) Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount appropriated was made.

(10)¹³ REPATRIATION LOANS.—For “Repatriation Loans”, \$1,200,000 for the fiscal year 1998 and \$1,200,000 for the fiscal year 1999, for administrative expenses.

SEC. 2102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)¹⁴ for “Salaries and Expenses” \$17,490,000 for the fiscal year 1998 and \$19,551,000 for the fiscal year 1999; and

(B)¹⁵ for “Construction” \$6,463,000 for the fiscal year 1998 and \$6,463,000 for the fiscal year 1999.

(2)¹⁶ INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission,

¹¹The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$14,000,000 for “Payment to the American Institute in Taiwan” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-95), provided \$14,750,000.

¹²The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$7,900,000 for “Protection of Foreign Missions and Officials” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$8,100,000.

¹³The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$593,000 for the cost of direct loans, and \$607,000 for related administrative expenses for the “Repatriation Loans Program Account” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$593,000 for the cost of direct loans, and \$607,000, for related administrative expenses.

¹⁴The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$17,490,000 for “Salaries and Expenses” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$19,551,000.

¹⁵The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$6,463,000 for “Construction” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$5,939,000.

¹⁶The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided the following:

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties

United States and Canada”, \$761,000 for the fiscal year 1998 and \$761,000 for the fiscal year 1999.

(3)¹⁶ INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,189,000 for the fiscal year 1998 and \$3,432,000 for the fiscal year 1999.

(4)¹⁷ INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$14,549,000 for the fiscal year 1998 and \$14,549,000 for the fiscal year 1999.

SEC. 2103. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 1998 and 1999 for grants to The Asia Foundation pursuant to this title.”¹⁸

SEC. 2104. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a)¹⁹ AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Voluntary Contributions to International

between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$5,490,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), similarly provided \$5,733,000.

¹⁷The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 24949, provided \$14,549,000 for “International Fisheries Commissions” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$14,549,000.

¹⁸The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$8,000,000 for “Payment to the Asia Foundation” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$8,250,000.

¹⁹The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2497), provided the following for fiscal year 1998:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$922,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998-1999 of \$2,533,000,000: *Provided further*, That not to exceed \$15,000,000 shall be transferred from funds made available under this heading to the ‘International Conferences and Contingencies’ account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$1,223,000 may be transferred from the funds made available under this heading to the ‘International Conferences and Contingencies’ account for assessed contributions

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to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That not to exceed \$2,000,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full U.S. assessment to the civil budget of the North Atlantic Treaty Organization.

* * * * *

“ARREARAGE PAYMENTS

“For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, \$475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-95), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$922,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998-1999 of \$2,533,000,000: *Provided further*, That not to exceed \$15,000,000 shall be transferred from funds made available under this heading to the ‘International Conferences and Contingencies’ account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$1,223,000 may be transferred from the funds made available under this heading to the ‘International Conferences and Contingencies’ account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That not to exceed \$2,000,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full U.S. assessment to the civil budget of the North Atlantic Treaty Organization.

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“ARREARAGE PAYMENTS

“For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, \$475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed

Organizations”, \$194,500,000 for the fiscal year 1998 and \$214,000,000 for the fiscal year 1999.

(b) LIMITATIONS.—

(1) WORLD FOOD PROGRAM.—Of the amounts authorized to be appropriated under subsection (a), \$4,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the World Food Program.

(2) UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.—Of the amount authorized to be appropriated under subsection (a), \$3,000,000 for the fiscal year 1998 and \$3,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) INTERNATIONAL PROGRAM ON THE ELIMINATION OF CHILD LABOR.—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2105.²⁰ VOLUNTARY CONTRIBUTIONS TO PEACEKEEPING OPERATIONS.

There are authorized to be appropriated for “Peacekeeping Operations”, \$77,500,000 for the fiscal year 1998 and \$83,000,000 for

United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.”

²⁰The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2498), provided the following for fiscal year 1998:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$256,000,000, of which not to exceed \$46,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act described in the first proviso under the heading ‘Contributions to International Organizations’ in this title: *Provided further*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-96), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$231,000,000: *Provided*, That none of the funds made available under this Act shall be obligated

Continued

the fiscal year 1999 for the Department of State to carry out section 551 of Public Law 87-195.

SEC. 2106. LIMITATION ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.

(a) **LIMITATION.**—Of the amounts made available for fiscal years 1998 and 1999 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the President submits to the appropriate congressional committees the certification described in subsection (b).

(b) **CERTIFICATION.**—The certification referred to in subsection (a) is a certification by the President that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

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

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

(3) provide no financial, political, or military benefit to the SLORC; and

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

TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

CHAPTER 1—AUTHORITIES AND ACTIVITIES

SEC. 2201. REIMBURSEMENT OF DEPARTMENT OF STATE FOR ASSISTANCE TO OVERSEAS EDUCATIONAL FACILITIES.

Section 29 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2701) is amended by adding at the end the following:

* * * 21

or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

²¹For amended text, see page 52.

SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows: * * *²²

SEC. 2203. RETENTION OF ADDITIONAL DEFENSE TRADE CONTROLS REGISTRATION FEES.

Section 45(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717(a)) is amended * * *²³

SEC. 2204. FEES FOR COMMERCIAL SERVICES.

Section 52(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724(b)) is amended by adding at the end the following: * * *²⁴

SEC. 2205. PILOT PROGRAM FOR FOREIGN AFFAIRS REIMBURSEMENT.**(a) FOREIGN AFFAIRS REIMBURSEMENT.—**

(1) **IN GENERAL.**—Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended * * *²⁵

(2)²⁶ **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on October 1, 1998.

(3) **TERMINATION OF PILOT PROGRAM.**—Effective October 1, 2002, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

(A) by striking subsections (e) and (f); and

(B) by redesignating subsection (g) as paragraph (4) of subsection (d).

(b) **FEES FOR USE OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**—Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section: * * *²⁷

(c)²⁸ **REPORTING ON PILOT PROGRAM.**—Two years after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees containing—

(1) the number of persons who have taken advantage of the pilot program established under subsections (e) and (f) of section 701 of the Foreign Service Act of 1980 and section 53 of the State Department Basic Authorities Act of 1956, as added by this section;

(2) the business or government affiliation of such persons;

(3) the amount of fees collected; and

(4) the impact of the program on the primary mission of the National Foreign Affairs Training Center.

SEC. 2206. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: * * *²⁹

²² Sec. 2202 amended and restated sec. 36 of the State Department Basic Authorities Act of 1956. For amended text, see page 59.

²³ For amended text, see page 75.

²⁴ For amended text see page 79.

²⁵ For amended text, see page 632.

²⁶ 22 U.S.C. 4021 note.

²⁷ Sec. 2205(b) added a new sec. 53 to the State Department Basic Authorities Act of 1956. For new text, see page 79.

²⁸ 22 U.S.C. 2725 note.

²⁹ Sec. 2206 added a new sec. 54 to the State Department Basic Authorities Act of 1956; see page 80.

SEC. 2207. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: * * *³⁰

SEC. 2208. OFFICE OF THE INSPECTOR GENERAL.

(a) PROCEDURES.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(4) The Inspector General shall develop and provide to employees—

“(A) information detailing their rights to counsel; and

“(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.”.

(b) NOTICE.—Section 209(e) of the Foreign Service Act of 1980 (22 U.S.C. 3929(e)) is amended by adding at the end the following new paragraph:

“(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.”.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of State and the Foreign Service shall submit a report to the appropriate congressional committees which includes the following:

(A) Detailed descriptions of the internal guidance developed or used by the Office of the Inspector General with respect to public disclosure of any information related to an ongoing investigation of any officer or employee of the Department of State, the United States Information Agency, or the United States Arms Control and Disarmament Agency.

(B) Detailed descriptions of those instances for the year ending December 31, 1997, in which any disclosure of information to the public by an employee of the Office of Inspector General about an ongoing investigation occurred, including details on the recipient of the information, the date of the disclosure, and the internal clearance process for the disclosure.

³⁰Sec. 2207 added a new sec. 55 to the State Department Basic Authorities Act of 1956; see page 80.

(2) STATUTORY CONSTRUCTION.—Disclosure of information to the public under this section shall not be construed to include information shared with Congress by an employee of the Office of the Inspector General.

SEC. 2209. CAPITAL INVESTMENT FUND.

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended * * *³¹

SEC. 2210. CONTRACTING FOR LOCAL GUARDS SERVICES OVERSEAS.

Section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864(c)) is amended * * *³²

SEC. 2211. AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.

Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended * * *³³

SEC. 2212. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.

(a) RECOVERY OF CERTAIN EXPENSES.—The Department of State Appropriation Act of 1937 (22 U.S.C. 2661) is amended in the fifth undesignated paragraph under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting “(including such expenses as salaries and other personnel expenses)” after “extraordinary expenses”.

(b) PROCUREMENT OF SERVICES.—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting “personal and” before “other support services”.

SEC. 2213. GRANTS TO REMEDY INTERNATIONAL ABDUCTIONS OF CHILDREN.

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606; Public Law 100-300) is amended by adding at the end the following new subsection: * * *³⁴

SEC. 2214.³⁴ COUNTERDRUG AND ANTICRIME ACTIVITIES OF THE DEPARTMENT OF STATE.

(a) COUNTERDRUG AND LAW ENFORCEMENT STRATEGY.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) OBJECTIVES.—In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

³¹ For amended text, see page 227.

³² For amended text, see page 357.

³³ For amended text, see *Legislation on Foreign Relations Through 2001*, vol. IV.

³⁴ For amended text, see page 2312.
³⁴ 22 U.S.C. 2656.

- (B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;
 - (C) assign responsibilities for meeting the objectives to appropriate elements of the Department;
 - (D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;
 - (E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and
 - (F) ensure that—
 - (i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and
 - (ii) the recommendations of the Department regarding certification determinations made by the President on March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.
- (3) REPORTS.—Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—
- (A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and
 - (B) detailed information on how certification determinations described in paragraph (2)(F) made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.
- (4) LIMITATION ON DELEGATION.—The Secretary shall designate an official in the Department who reports directly to the Secretary to oversee the implementation of the strategy throughout the Department.
- (b) INFORMATION ON INTERNATIONAL CRIMINALS.—
- (1) INFORMATION SYSTEM.—The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for

use in consideration of applications for visas for entry into the United States.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) OVERSEAS COORDINATION OF COUNTERDRUG AND ANTICRIME PROGRAMS, POLICY, AND ASSISTANCE.—

(1) STRENGTHENING COORDINATION.—The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) DESIGNATION OF OFFICERS.—

(A) IN GENERAL.—Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), including the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) REPORTS.—The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

SEC. 2215. ANNUAL REPORT ON OVERSEAS SURPLUS PROPERTIES.

The Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.) is amended by adding at the end the following new section: * * *³⁵

SEC. 2216. HUMAN RIGHTS REPORTS.

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended * * *³⁶

³⁵Sec. 2215 added a new sec. 12 to the Foreign Service Buildings Act, 1926; see page 1111.

³⁶For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

SEC. 2217. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: * * *³⁷

SEC. 2218.³⁸ REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.

(a) **PROCUREMENT POLICY.**—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) **IMPLEMENTATION.**—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

SEC. 2219. REDUCTION OF REPORTING.

(a) **REPEALS.**—The following provisions of law are repealed:

(1) **MODEL FOREIGN LANGUAGE COMPETENCE POSTS.**—The second sentence of section 161(c) of the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991 (22 U.S.C. 4171 note).

(2) **ACTIONS OF THE GOVERNMENT OF HAITI.**—Section 705(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

(3) **TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.**—Section 123(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

(4) **MILITARY ASSISTANCE FOR HAITI.**—Section 203(c) of the Special Foreign Assistance Act of 1986 (Public Law 99-529).

(5) **INTERNATIONAL SUGAR AGREEMENT, 1977.**—Section 5 of the Act entitled “An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes” (Public Law 96-236; 7 U.S.C. 3605 and 3606).

(6) **AUDIENCE SURVEY OF WORLDNET PROGRAM.**—Section 209 (c) and (d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204).

(7) **RESEARCH ON THE NEAR AND MIDDLE EAST.**—Section 228(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

³⁷ Sec. 2217 added a new sec. 56 to the State Department Basic Authorities Act of 1956; see page 80.

³⁸ 22 U.S.C. 2669b.

(b) **PROGRESS TOWARD REGIONAL NONPROLIFERATION.**—Section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c); relating to periodic reports on progress toward regional nonproliferation) is amended by striking “Not later than April 1, 1993 and every six months thereafter,” and inserting “Not later than April 1 of each year,”.

(c) **REPORT ON PARTICIPATION BY UNITED STATES MILITARY PERSONNEL ABROAD IN UNITED STATES ELECTIONS.**—Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff(b)(6)) is amended by striking “of voter participation” and inserting “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,”.

CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

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

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

SEC. 2222. CONSULAR OFFICERS.

(a) **PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.**—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: “For purposes of this paragraph, the term ‘consular officer’ includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.”.

(b) **PROVISIONS APPLICABLE TO CONSULAR OFFICERS.**—Section 1689 of the Revised Statutes (22 U.S.C. 4191) is amended by inserting “and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe” after “such officers”.

(c) **PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.**—

(1) **DESIGNATED UNITED STATES CITIZENS PERFORMING NOTARIAL ACTS.**—Section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221) is further amended by inserting after the first sentence: “At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such

acts, and any such contractor so authorized shall not be considered to be a consular officer.”.

(2) DEFINITION OF CONSULAR OFFICERS.—Section 3492(c) of title 18, United States Code, is amended by adding at the end the following: “For purposes of this section and sections 3493 through 3496 of this title, the term ‘consular officers’ includes any United States citizen who is designated to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”.

(d) PERSONS AUTHORIZED TO ADMINISTER OATHS.—Section 115 of title 35, United States Code, is amended by adding at the end the following: “For purposes of this section, a consular officer shall include any United States citizen serving overseas, authorized to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”.

(e) DEFINITION OF CONSULAR OFFICER.—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by—

(1) inserting “or employee” after “officer” the second place it appears; and

(2) inserting before the period at the end of the sentence “or, when used in title III, for the purpose of adjudicating nationality”.

(f) TRAINING FOR EMPLOYEES PERFORMING CONSULAR FUNCTIONS.—Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding at the end the following new subsection:

“(d)(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

“(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

“(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

“(2) As used in this subsection, the term ‘consular function’ includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.”.

SEC. 2223. REPEAL OF OUTDATED CONSULAR RECEIPT REQUIREMENTS.

Sections 1726, 1727, and 1728 of the Revised Statutes of the United States (22 U.S.C. 4212, 4213, and 4214), as amended (relating to accounting for consular fees) are repealed.

SEC. 2224. ELIMINATION OF DUPLICATE FEDERAL REGISTER PUBLICATION FOR TRAVEL ADVISORIES.

(a) FOREIGN AIRPORTS.—Section 44908(a) of title 49, United States Code, is amended—

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

- (2) by striking paragraph (2); and
- (3) by redesignating paragraph (3) as paragraph (2).

(b) FOREIGN PORTS.—Section 908(a) of the International Maritime and Port Security Act of 1986 (46 U.S.C. App. 1804(a)) is amended by striking the second sentence, relating to Federal Register publication by the Secretary of State.

SEC. 2225.³⁹ DENIAL OF VISAS TO CONFISCATORS OF AMERICAN PROPERTY.

(a) DENIAL OF VISAS.—Except as otherwise provided in section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

- (1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated, a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or
- (2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

- (1) any country established by international mandate through the United Nations; or
- (2) any territory recognized by the United States Government to be in dispute.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

- (1) a list of aliens who have been denied a visa under this subsection; and
- (2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

SEC. 2226. INADMISSIBILITY OF ANY ALIEN SUPPORTING AN INTERNATIONAL CHILD ABDUCTOR.

(a) AMENDMENT OF IMMIGRATION AND NATIONALITY ACT.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by striking clause (ii) and inserting the following: * * *⁴⁰

(b)⁴¹ EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking admission to the United States on or after the date of enactment of this Act.

CHAPTER 3—REFUGEES AND MIGRATION

Subchapter A—Authorization of Appropriations

SEC. 2231.⁴² MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—

³⁹ 8 U.S.C. 1182d.

⁴⁰ See 8 U.S.C. 1182(a)(10)(C).

⁴¹ 8 U.S.C. 1182 note.

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$650,000,000 for the fiscal year 1998 and \$704,500,000 for the fiscal year 1999.

(2) LIMITATIONS.—

(A) LIMITATION REGARDING TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amounts authorized to be appropriated in paragraph (1), not more than \$2,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be available only for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1), \$80,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999 are authorized to be available for as-

⁴² Appropriations for Migration and Refugee Assistance as administered by the Department of State are provided for in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1999 appropriations levels and conditions were provided in title II of sec. 101(d) of Public Law 105-277 (112 Stat. 2681-162):

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$640,000,000: *Provided*, That not more than \$13,000,000 shall be available for administrative expenses: *Provided further*, That not less than \$70,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$30,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

For fiscal year 1999, title II H.R. 3422, enacted by reference in sec. 1001(a)(2) of Public Law 106-113 (113 Stat. 1535), provided:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$625,000,000, of which \$21,000,000 shall become available for obligation on September 30, 2000, and remain available until expended: *Provided*, That not more than \$13,800,000 shall be available for administrative expenses: *Provided further*, That not less than \$60,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$12,500,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

sistance for refugees resettling in Israel from other countries.

(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$1,500,000 for the fiscal year 1998 and \$1,500,000 for the fiscal year 1999 for humanitarian assistance are authorized to be available, including food, medicine, clothing, and medical and vocational training, to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

Subchapter B—Authorities

SEC. 2241.⁴³ UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.

(a) IN GENERAL.—None of the funds made available by this subdivision shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) MIGRATION AND REFUGEE ASSISTANCE.—None of the funds made available by section 2231 of this division or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) INVOLUNTARY RETURN DEFINED.—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

SEC. 2242.⁴⁴ UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.

(a) POLICY.—It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for be-

⁴³ 22 U.S.C. 2601 note.

⁴⁴ 8 U.S.C. 1231 note. In Department of State Public Notice 2991, effective February 26, 1999 (64 F.R. 9435), the Deputy Secretary of State issued a final rule to implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The regulations are codified at 22 CFR Part 95.

lieving the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

(c) EXCLUSION OF CERTAIN ALIENS.—To the maximum extent consistent with the obligations of the United States under the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, the regulations described in subsection (b) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(d) REVIEW AND CONSTRUCTION.—Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(e) AUTHORITY TO DETAIN.—Nothing in this section shall be construed as limiting the authority of the Attorney General to detain any person under any provision of law, including, but not limited to, any provision of the Immigration and Nationality Act.

(f) DEFINITIONS.—

(1) CONVENTION DEFINED.—In this section, the term “Convention” means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) SAME TERMS AS IN THE CONVENTION.—Except as otherwise provided, the terms used in this section have the meanings given those terms in the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

SEC. 2243. REPROGRAMMING OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended * * *⁴⁵

⁴⁵For amended text, see page 57.

SEC. 2244. ELIGIBILITY FOR REFUGEE STATUS.

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-171) is amended * * *⁴⁶

SEC. 2245. REPORTS TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.

Beginning not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall supplement the monthly report to Congress entitled "Update on Monitoring of Cuban Migrant Returnees" with additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 and the treatment by the Government of Cuba of persons who have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE**CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE****SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.**

(a) ESTABLISHMENT.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection: * * *⁴⁷

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

SEC. 2302. ELIMINATION OF DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSARING.

Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2651a note) is amended by striking subsection (f).

SEC. 2303. PERSONNEL MANAGEMENT.

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection: * * *⁴⁸

SEC. 2304. DIPLOMATIC SECURITY.

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection: * * *⁴⁹

SEC. 2305. NUMBER OF SENIOR OFFICIAL POSITIONS AUTHORIZED FOR THE DEPARTMENT OF STATE.

(a) UNDER SECRETARIES.—

(1) IN GENERAL.—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by striking "5" and inserting "6".

⁴⁶For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁴⁷For amended text, see page 36.

⁴⁸For amended text see page 36.

⁴⁹For amended text, see page 36.

(2) CONFORMING AMENDMENT TO TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking “Under Secretaries of State (5)” and inserting “Under Secretaries of State (6)”.

(b) ASSISTANT SECRETARIES.—

(1) IN GENERAL.—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended by striking “20” and inserting “24”.

(2) CONFORMING AMENDMENT TO TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of State (20)” and inserting “Assistant Secretaries of State (24)”.

(c) DEPUTY ASSISTANT SECRETARIES.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 2306. NOMINATION OF UNDER SECRETARIES AND ASSISTANT SECRETARIES OF STATE. * * *⁵⁰

CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

SEC. 2311. FOREIGN SERVICE REFORM.

(a) PERFORMANCE PAY.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking “Members” and inserting “Subject to subsection (e), members”; and

(2) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.”

(b) EXPEDITED SEPARATION OUT.—

(1) SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall develop and implement procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the “years of lowest ranking”) if the rating official for such member was not the same individual for any two of the years of lowest ranking.

(2) SPECIAL INTERNAL REVIEWS.—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member’s

⁵⁰Sec. 2306 amended sec. 1 of the State Department Basic Authorities Act of 1956; see page 36.

file shall be conducted to determine whether the member should be considered for action leading to separation.

(3) PROCEDURES.—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2).

SEC. 2312. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION.
* * *⁵¹

SEC. 2313. AUTHORITY OF SECRETARY TO SEPARATE CONVICTED FELONS FROM THE FOREIGN SERVICE.

Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended * * *⁵²

SEC. 2314. CAREER COUNSELING.

(a) IN GENERAL.—Section 706(a) of the Foreign Service Act of 1980 (22 U.S.C. 4026(a)) is amended * * *⁵³

SEC. 2315. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows: * * *⁵⁴

SEC. 2316. AVAILABILITY PAY FOR CERTAIN CRIMINAL INVESTIGATORS WITHIN THE DIPLOMATIC SECURITY SERVICE.

(a) IN GENERAL.—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) For purposes of this section, the term ‘criminal investigator’ includes a special agent occupying a position under title II of Public Law 99-399 if such special agent—

“(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

“(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

“(2) In applying subsection (h) with respect to a special agent under this subsection—

“(A) any reference in such subsection to ‘basic pay’ shall be considered to include amounts designated as ‘salary’;

“(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

“(C) paragraph (2)(B) of such subsection shall be applied by substituting for ‘Office of Personnel Management’ the following: ‘Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)’.”

(b) IMPLEMENTATION.—Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial cer-

⁵¹ Sec. 2312 amended the Foreign Service Act of 1980 at sec. 609 and at sec. 855. Subsec. (c) of this section provided exception to the the amendments; see notes accompanying amended text.

⁵² For amended text, see page 629.

⁵³ For amended text, see page 637.

⁵⁴ For amended text, see page 722.

tification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking “Public Law 99-399” and inserting “Public Law 99-399, subject to subsection (k)”.

(2) Section 5542(e) of such title is amended by striking “title 18, United States Code,” and inserting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,”.

(d)⁵⁵ EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

SEC. 2317. NONOVERTIME DIFFERENTIAL PAY.

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”; and

(2) at the end of section 5546(a), by adding the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”.

SEC. 2318.⁵⁶ REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE.

The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

⁵⁵ 5 U.S.C. 5542 note.

⁵⁶ 22 U.S.C. 3922a note.

(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

(5) The numbers and percentages of all minority Foreign Service officers at each grade.

(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps.

**TITLE XXIV—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS⁵⁷**

* * * * *

**TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER
THAN UNITED NATIONS**

SEC. 2501. INTERNATIONAL CONFERENCES AND CONTINGENCIES.

There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,537,000 for the fiscal year 1998 and \$16,223,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

SEC. 2502.⁵⁸ RESTRICTION RELATING TO UNITED STATES ACCESSION TO ANY NEW INTERNATIONAL CRIMINAL TRIBUNAL.

(a) **PROHIBITION.**—The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act; or

(2) any statute enacted by Congress on or after the date of enactment of this Act.

(b) **JURISDICTION DESCRIBED.**—The jurisdiction described in this section is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) **DEFINITION.**—The term “new international criminal tribunal” means any permanent international criminal tribunal established on or after the date of enactment of this Act and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as estab-

⁵⁷ For title XXIV see beginning at page 1258.

⁵⁸ 22 U.S.C. 262-1.

lished by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

SEC. 2503.⁵⁹ UNITED STATES MEMBERSHIP IN THE BUREAU OF THE INTERPARLIAMENTARY UNION.

(a) INTERPARLIAMENTARY UNION LIMITATION.—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

(b) ELIMINATION OF AUTHORITY TO PAY EXPENSES OF THE AMERICAN GROUP.—Section 1 of the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) in the first sentence—

(A) by striking “fiscal year” and all that follows through “(1) for” and inserting “fiscal year for”;

(B) by striking “; and”; and

(C) by striking paragraph (2); and

(2) by striking the second sentence.

(c) ELIMINATION OF PERMANENT APPROPRIATION.—Section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988 (Public Law 100-202; 22 U.S.C. 276 note)) is amended—

(1) by striking “\$440,000” and inserting “\$350,000”; and

(2) by striking “paragraph (2) of the first section of Public Law 74-170.”.

(d) CONDITIONAL TERMINATION OF AUTHORITY.—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276-276a-4) is repealed.

(e) TRANSFER OF FUNDS TO THE TREASURY.—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100-202) that are available as of the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.

⁵⁹ 22 U.S.C. 276 note.

SEC. 2504. SERVICE IN INTERNATIONAL ORGANIZATIONS.

(a) **IN GENERAL.**—Section 3582(b) of title 5, United States Code, is amended by striking all after the first sentence and inserting the following: “On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. This subsection does not apply to a congressional employee.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transfers that take effect on or after the date of enactment of this Act.

SEC. 2505.⁶⁰ REPORTS REGARDING FOREIGN TRAVEL.

(a) **PROHIBITION.**—Except as provided in subsection (e), none of the funds authorized to be appropriated by this division for fiscal year 1999 may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

(b) **PRELIMINARY REPORTS.**—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

- (1) the name and employing agency of the officer or employee;
- (2) the name of the official who authorized the travel; and
- (3) the purpose and duration of the travel.

(c) **FINAL REPORTS.**—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

- (1) setting forth the actual duration and cost of the travel; and
- (2) updating any other information included in the preliminary report.

(d) **REPORT TO CONGRESS.**—The Director shall submit a report not later than April 1, 1999, to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international con-

⁶⁰ 5 U.S.C. 5707 note.

ference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—

(1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;

(2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and

(3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.

(e) EXCEPTIONS.—This section shall not apply to travel by—

(1) the President or the Vice President;

(2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission; or

(3) any officer or employee who travels prior to January 1, 1999.

(f) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term “Director” means the Director of the Office of International Conferences of the Department of State.

(2) EXECUTIVE BRANCH AGENCY.—The terms “Executive branch agency” and “Executive branch agencies” mean—

(A) an entity or entities, other than the General Accounting Office, defined in section 105 of title 5, United States Code; and

(B) the Executive Office of the President (except as provided in subsection (e)).

(3) INTERNATIONAL CONFERENCE.—The term “international conference” means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.

(g) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

(2) the total number of individuals in each agency who engaged in such travel.

**TITLE XXVI—UNITED STATES ARMS CONTROL AND
DISARMAMENT AGENCY**

SEC. 2601.⁶¹ AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act \$41,500,000 for the fiscal year 1999.

SEC. 2602. STATUTORY CONSTRUCTION.

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 2223 of this division, is amended by adding at the end the following new subsection:
* * *⁶²

TITLE XXVII—EUROPEAN SECURITY ACT OF 1998⁶³

* * * * *

TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS

**SEC. 2801. REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST
THE GOVERNMENT OF SAUDI ARABIA.**

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, shall submit a report to the appropriate congressional committees on specific actions taken by the Department of State, the Department of Defense, and the Department of Commerce toward progress in resolving the commercial disputes between United States firms and the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396), including the additional claims noticed by the Department of Commerce on page 2 of that report.

(b) **TERMINATION.**—Subsection (a) shall cease to have effect on the earlier of—

⁶¹The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2500), provided the following:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

“(RESCISSION)

“Of the unexpended balances previously appropriated under this heading, \$700,000 are rescinded.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-98), provided:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).”

⁶²For amended text, see page 1547.

⁶³22 U.S.C. 1928 note. For text see beginning at page 2098.

(1) the date of submission of the seventh⁶⁴ report under that subsection; or

(2) the date that the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, certifies in writing to the appropriate congressional committees that the commercial disputes referred to in subsection (a) have been resolved satisfactorily.

SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.

(a) **REPORTS REQUIRED.**—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 2001,⁶⁵ the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

(B) in the preceding 3-month period, in the case of each subsequent report.

(b) **PROTECTION OF IDENTITY OF CONCERNED ENTITIES.**—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).

SEC. 2803. REPORT ON COMPLIANCE WITH THE HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION.

(a) **IN GENERAL.**—Beginning 6 months after the date of the enactment of this Act and every 12 months thereafter during the period ending September 30, 2001,⁶⁶ the Secretary of State shall submit a report to the appropriate congressional committees on the compliance with the provisions of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on Octo-

⁶⁴ Sec. 209(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “third” and inserted in lieu thereof “seventh”.

⁶⁵ Sec. 209(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “September 30, 1999,” and inserted in lieu thereof “September 30, 2001.”

⁶⁶ Sec. 202(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “1999,” and inserted in lieu thereof “2001.”

ber 25, 1980, by the signatory countries of the Convention. Each such report shall include the following information:

(1) The number of applications for the return of children submitted by applicants in the United States⁶⁷ to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing.

(2) A list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States.⁶⁸

(3) A list of the countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to applications for the return of children, access to children, or both,⁶⁹ submitted by applicants in the United States⁷⁰ to the Central Authority for the United States.

(4) Detailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted.⁷¹

(5) Information on efforts by the Department of State to encourage other countries to become signatories of the Convention.

(6)⁷² A list of the countries that are parties to the Convention in which, during the reporting period, parents who have been left-behind⁷³ in the United States have not been able to secure prompt enforcement of a final return or access order under a Hague proceeding, of a United State custody, access, or visitation order, or of an access or visitation order by authorities in the country concerned, due to the absence of a

⁶⁷ Sec. 202(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "United States citizens" and inserted in lieu thereof "applicants in the United States".

⁶⁸ Sec. 202(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "abducted." and inserted in lieu thereof "abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States".

⁶⁹ Sec. 202(4)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "children" and inserted in lieu thereof "children, access to children, or both".

⁷⁰ Sec. 202(4)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "United States citizens" and inserted in lieu thereof "applicants in the United States".

⁷¹ Sec. 202(5) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added ", including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted".

⁷² Sec. 202(6) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added paras. (6) and (7).

⁷³ As enrolled.

prompt and effective method for enforcement of civil court orders, the absence of a doctrine of comity, or other factors.

(7)⁷² A description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention.

(b) DEFINITION.—In this section, the term “Central Authority for the United States” has the meaning given the term in Article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

SEC. 2804. SENSE OF CONGRESS RELATING TO RECOGNITION OF THE ECUMENICAL PATRIARCHATE BY THE GOVERNMENT OF TURKEY.

It is the sense of Congress that the United States should use its influence with the Government of Turkey to suggest that the Government of Turkey—

(1) recognize the Ecumenical Patriarchate and its nonpolitical, religious mission;

(2) ensure the continued maintenance of the institution’s physical security needs, as provided for under Turkish and international law, including the Treaty of Lausanne, the 1968 Protocol, the Helsinki Final Act (1975), and the Charter of Paris;

(3) provide for the proper protection and safety of the Ecumenical Patriarch and Patriarchate personnel; and

(4) reopen the Ecumenical Patriarchate’s Halki Patriarchal School of Theology.

SEC. 2805. REPORT ON RELATIONS WITH VIETNAM.

In order to provide Congress with the necessary information by which to evaluate the relationship between the United States and Vietnam, the Secretary of State shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 180 days thereafter during the period ending September 30, 2001,⁷⁴ on the extent to which—

(1) the Government of the Socialist Republic of Vietnam is cooperating with the United States in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs) through the provision of records and the unilateral and joint recovery and repatriation of American remains;

(2) the Government of the Socialist Republic of Vietnam has made progress toward the release of all political and religious prisoners, including Catholic, Protestant, and Buddhist clergy;

(3) the Government of the Socialist Republic of Vietnam is cooperating with requests by the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews under the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refu-

⁷⁴ Sec. 209(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “September 30, 1999,” and inserted in lieu thereof “September 30, 2001.”

gees (ROVR) programs, and in providing exit visas for such persons;

(4) the Government of the Socialist Republic of Vietnam has taken vigorous action to end extortion, bribery, and other corrupt practices in connection with such exit visas; and

(5) the Government of the United States is making vigorous efforts to interview and resettle former reeducation camp victims, their immediate families including unmarried sons and daughters, former United States Government employees, and other persons eligible for the ODP program, and to give such persons the full benefit of all applicable United States laws including sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990 (Public Law 101-167).

SEC. 2806. REPORTS AND POLICY CONCERNING HUMAN RIGHTS VIOLATIONS IN LAOS.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the allegations of persecution and abuse of the Hmong and Laotian refugees who have returned to Laos. The report shall include the following:

(1) A full investigation, including full documentation of individual cases of persecution, of the Lao Government's treatment of Hmong and Laotian refugees who have returned to Laos.

(2) The steps the Department of State will take to continue to monitor any systematic human rights violations by the Government of Laos.

(3) The actions which the Department of State will take to seek to ensure the cessation of human rights violations.

SEC. 2807. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.

(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically-elected governments of the Western Hemisphere, the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President should seek the input of such governments on the possibility of forming one or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a). The report shall include the following:

(A) An analysis of the reactions of the governments concerned to the proposal.

(B) An assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance.

(C) A determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States.

(D) If the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance.

(E) If the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of how the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 2808. CONGRESSIONAL STATEMENT REGARDING THE ACCESSION OF TAIWAN TO THE WORLD TRADE ORGANIZATION.

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

(1) The people of the United States and the people of the Republic of China on Taiwan have long enjoyed extensive ties.

(2) Taiwan is currently the 8th largest trading partner of the United States.

(3) The executive branch of Government has committed publicly to support Taiwan's bid to join the World Trade Organization and has declared that the United States will not oppose this bid solely on the grounds that the People's Republic of China, which also seeks membership in the World Trade Organization, is not yet eligible because of its unacceptable trade practices.

(4) The United States and Taiwan have concluded discussions on a variety of outstanding trade issues that remain unresolved with the People's Republic of China and that are necessary for the United States to support Taiwan's membership in the World Trade Organization.

(5) The reversion of control over Hong Kong—a member of the World Trade Organization—to the People's Republic of

China in many respects affords to the People's Republic of China the practical benefit of membership in the World Trade Organization for a substantial portion of its trade in goods despite the fact that the trade practices of the People's Republic of China currently fall far short of what the United States expects for membership in the World Trade Organization.

(6) The executive branch of Government has announced its interest in the admission of the People's Republic of China to the World Trade Organization; the fundamental sense of fairness of the people of the United States warrants the United States Government's support for Taiwan's relatively more meritorious application for membership in the World Trade Organization.

(7) Despite having made significant progress in negotiations for its accession to the World Trade Organization, Taiwan has yet to offer acceptable terms of accession in agricultural and certain other market sectors.

(8) It is in the economic interest of United States consumers and exporters for Taiwan to complete those requirements for accession to the World Trade Organization at the earliest possible moment.

(b) CONGRESSIONAL STATEMENT.—The Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization.

SEC. 2809. PROGRAMS OR PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY IN CUBA.

(a) WITHHOLDING OF UNITED STATES PROPORTIONAL SHARE OF ASSISTANCE.—Section 307(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(c)) is amended—

(1) by striking “The limitations” and inserting “(1) Subject to paragraph (2), the limitations”; and

(2) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

“(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

“(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

“(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

“(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(III) incorporates internationally accepted nuclear safety standards.”.

(b)⁷⁵ **OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose the following:

(1) Technical assistance programs or projects of the Agency at the Juragua Nuclear Power Plant near Cienfuegos, Cuba, and at the Pedro Pi Nuclear Research Center.

(2) Any other program or project of the Agency in Cuba that is, or could become, a threat to the security of the United States.

(c)⁷⁵ **REPORTING REQUIREMENTS.**—

(1) **REQUEST FOR IAEA REPORTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to request the Director-General of the Agency to submit to the United States all reports prepared with respect to all programs or projects of the Agency that are of concern to the United States, including the programs or projects described in subsection (b).

(2) **ANNUAL REPORTS TO THE CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to the Congress a report containing a description of all programs or projects of the Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)).

SEC. 2810. LIMITATION ON ASSISTANCE TO COUNTRIES AIDING CUBA NUCLEAR DEVELOPMENT.

(a) **IN GENERAL.**—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this division, is further amended by adding at the end the following:

“(y)(1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

“(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

“(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelco, and Cuba is in compliance with the requirements of either such Treaty;

“(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

“(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of

⁷⁵22 U.S.C. 2021 note.

nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.”

(b) EFFECTIVE DATE.—Section 620(y) of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.

SEC. 2811. INTERNATIONAL FUND FOR IRELAND. * * *⁷⁶

SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

⁷⁶Sec. 2811 amended the Anglo-Irish Agreement Support Act of 1986 in several sections. See *Legislation on Foreign Relations Through 2001*, vol. I-B.

- (1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);
- (2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and
- (3) the humanitarian assistance program described in subsection (c).

SEC. 2813. DEVELOPMENT OF DEMOCRACY IN THE REPUBLIC OF SERBIA.

- (a) **FINDINGS.**—Congress makes the following findings:
- (1) The United States stands as the beacon of democracy and freedom in the world.
 - (2) A stable and democratic Republic of Serbia is important to the interests of the United States, the international community, and to peace in the Balkans.
 - (3) Democratic forces in the Republic of Serbia are beginning to emerge, notwithstanding the efforts of Europe's longest-standing communist dictator, Slobodan Milosevic.
 - (4) The Serbian authorities have sought to continue to hinder the growth of free and independent news media in the Republic of Serbia, in particular the broadcast news media, and have harassed journalists performing their professional duties.
 - (5) Under Slobodan Milosevic, the political opposition in Serbia has been denied free, fair, and equal opportunity to participate in the democratic process.
- (b) **SENSE OF CONGRESS.**—It is the sense of Congress that—
- (1) the United States, the international community, non-governmental organizations, and the private sector should continue to promote the building of democratic institutions and civic society in the Republic of Serbia, help strengthen the independent news media, and press for the Government of the Republic of Serbia to respect the rule of law; and
 - (2) the normalization of relations between the “Federal Republic of Yugoslavia” (Serbia and Montenegro) and the United States requires, among other things, that President Milosevic and the leadership of Serbia—
 - (A) promote the building of democratic institutions, including strengthening the independent news media and respecting the rule of law;
 - (B) promote the respect for human rights throughout the “Federal Republic of Yugoslavia” (Serbia and Montenegro); and
 - (C) promote and encourage free, fair, and equal conditions for the democratic opposition in Serbia.

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

Public Law 103-236 [H.R. 2333], 108 Stat. 382, approved April 30, 1994; amended by Public Law 103-317 [Department of State Appropriations Act, 1995; H.R. 4603], 108 Stat. 1724 at 1760, approved August 26, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104-17 [S. 962], 109 Stat. 191, approved July 2, 1995; Public Law 104-22 [H.R. 2161], 109 Stat. 260, approved August 14, 1995; Public Law 104-30 [H.R. 2404], 109 Stat. 277, approved September 30, 1995; Public Law 104-47 [H.R. 2589], 109 Stat. 423, approved November 13, 1995; Public Law 104-89 [H.R. 2808], 109 Stat. 960, approved January 4, 1996; Public Law 104-164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998; Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1536, approved November 29, 1999

AN ACT To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

SECTION 1.¹ SHORT TITLE.

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

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- Sec. 706. Bureaus, offices, and divisions [amends other legislation]
- Sec. 707. Scientific and Policy Advisory Committee [amends other legislation]
- Sec. 708. Presidential Special Representatives [amends other legislation]
- Sec. 709. Policy formulation [amends other legislation]
- Sec. 710. Negotiation management [amends other legislation]
- Sec. 711. Report on measures to coordinate research and development.
- Sec. 712. Verification of compliance [amends other legislation]
- Sec. 713. Negotiating records [amends other legislation]
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- Sec. 715. Appointment and compensation of personnel [amends other legislation]
- Sec. 716. Security requirements [amends other legislation]
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TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1)³ DIPLOMATIC AND CONSULAR PROGRAMS.—For “Diplomatic and Consular Programs”, of the Department of State

³The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; \$1,704,589,000, and in addition not to exceed \$665,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717, and in addition not to exceed \$1,185,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553, as amended by section 120 of Public Law 101-246), and in addition not to exceed \$15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)) and for expenses of general administration: *Provided*, That notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1760), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration \$1,731,416,000: *Provided*, That hereafter all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended: *Provided further*, That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant’s fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended. Of the funds appropriated under

Continued

\$1,704,589,000 for the fiscal year 1994 and \$1,781,139,000 for the fiscal year 1995.

(2)⁴ SALARIES AND EXPENSES.—For “Salaries and Expenses”, of the Department of State \$396,722,000 for the fiscal year 1994 and \$391,373,000 for the fiscal year 1995.

(3)⁵ ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For “Acquisition and Maintenance of Buildings Abroad”, \$381,481,000 for the fiscal year 1994 and \$309,760,000 for the fiscal year 1995.

(4)⁶ REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,780,000 for the fiscal year 1994 and \$4,780,000 for the fiscal year 1995.

(5)⁷ EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Serv-

this heading: not to exceed \$4,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation and environmental and other scientific issues; not to exceed \$600,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and not to exceed \$300,000 shall be available to carry out activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated under this heading shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103-236.

“Of the funds provided under this heading, \$28,356,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and \$15,000,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day period beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS planning report required by section 507.

“In addition, not to exceed \$700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed \$1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553, as amended by section 120 of Public Law 101-246); and in addition not to exceed \$15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

“Notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.”

⁴The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided \$396,722,000, for “Salaries and Expenses” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$385,000,000 for “Salaries and Expenses”.

⁵The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided “\$410,000,000, of which \$10,000,000 is for relocation and renovation costs necessary to facilitate the consolidation of overseas financial and administrative activities in the United States, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”, for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), made available \$421,760,000, “* * * *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. Of the funds made available in this paragraph not to exceed \$117,864,000 shall be available for Maintenance of Buildings and Facility Rehabilitation.”

⁶The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$4,780,000 for “Representation allowances” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$4,780,000 for “Representation allowances”.

⁷The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$7,805,000 for “Emergencies in the Diplomatic and Consular Service”, for fiscal year 1994.

ice”, \$7,805,000 for the fiscal 1994 and \$6,500,000 for the fiscal year 1995.

(6)⁸ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$23,469,000 for the fiscal year 1994 and \$23,798,000 for the fiscal year 1995.

(7)⁹ PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$15,165,000 for the fiscal year 1994 and \$15,465,000 for the fiscal year 1995.

(8)¹⁰ PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$10,551,000 for the fiscal year 1994 and \$10,079,000 for the fiscal year 1995.

(9)¹¹ REPATRIATION LOANS.—For “Repatriation Loans”, \$776,000 for the fiscal year 1994 and \$776,000 for the fiscal year 1995, for administrative expenses.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for “Salaries and Expenses” under subsection (a)(2) \$500,000 is authorized to be appropriated for the fiscal year 1994 and \$500,000 for the fiscal year 1995 for the Department of State for the recruitment of Hispanic American students from United States institutions of higher education with a high percentage enrollment of Hispanic Americans and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs.

(2) Of the amounts authorized to be appropriated for “Diplomatic and Consular Programs” under subsection (a)(1)—

(A) \$5,000,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 for grants, contracts, and

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided \$6,500,000 for “Emergencies in the Diplomatic and Consular Service”.

⁸The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided \$23,469,000, for the Office of Inspector General for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$23,850,000 for the Office of Inspector General.

⁹The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$15,165,000 for “Payment to the American Institute in Taiwan” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided \$15,465,000 for “Payment to the American Institute in Taiwan”.

¹⁰The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$10,551,000 for “Protection of Foreign Missions and Officials” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$9,579,000 for “Protection of Foreign Missions and Officials”, “* * * *Provided*, That none of the funds appropriated in this paragraph shall be available to carry out section 101(b)(4)(A) of Public Law 103-236: *Provided further*, That of the funds appropriated in this paragraph, not to exceed \$500,000 shall be available to carry out section 101(b)(4)(B) of Public Law 103-236.”

¹¹The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$593,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$183,000, which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided the same amount and terms as fiscal year 1994.

other activities to conduct research and promote international cooperation on environmental and other scientific issues;

(B) \$11,500,000 is authorized to be available for fiscal year 1994 and \$11,900,000 is authorized to be available for fiscal year 1995, only for administrative expenses of the bureau charged with carrying out the purposes of the Migration and Refugee Assistance Act of 1962;

(C) \$700,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy established under title IX of this Act and such amounts under this subparagraph are authorized to remain available until expended; and

(D) \$800,000 is authorized to be appropriated for¹² fiscal years 1994 and 1995 to carry out the activities of the Office of Cambodian Genocide Investigations established under part D of title V¹³ of this Act.

(E) \$2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research.

(3) Of the amounts authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" under subsection (a)(3), \$95,904,000 is authorized to be appropriated for the fiscal year 1994 and \$114,825,000 is authorized to be appropriated for the fiscal year 1995 for Maintenance of Buildings and Facility Rehabilitation.

(4) Of the amounts authorized to be appropriated for "Protection of Foreign Missions and Officials" in subsection (a)(8)—

(A) \$940,000 is authorized to be available to reimburse the City of Seattle and the State of Washington for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November 1993, on a one-time-only basis, and for purposes of obligation and expenditure of amounts under this subparagraph under Public Law 103-121 as reimbursement for extraordinary protective services under section 208 of title 3, United States Code, the limitations of section 202(10) of title 3, United States Code (concerning 20 or more consulates), shall not apply; and

(B) \$1,000,000 is authorized to be available for fiscal year 1995 to reimburse State and local government agencies for security costs associated with the Western Hemisphere summit scheduled to be held in Miami, Florida in December 1994.

(c)¹⁴ REPEAL.—Effective October 1, 1995, section 401(a)(3) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is repealed.

¹²Sec. 1(t) of Public Law 103-415 (108 Stat. 4302) struck out "\$400,000 is authorized to be appropriated for each of the" and inserted in lieu thereof "\$800,000 is authorized to be appropriated for".

¹³Sec. 1(x) of Public Law 103-415 (108 Stat. 4302) struck out "title 5" and inserted in lieu thereof "part D of title V".

¹⁴22 U.S.C. 4851 note.

SEC. 102. INTERNATIONAL ORGANIZATIONS, PROGRAMS, AND CONFERENCES.

(a)¹⁵ **ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.**—There are authorized to be appropriated for “Contributions to International Organizations”, \$865,885,000 for the fiscal year 1994 and \$873,222,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b)¹⁶ **ASSESSED CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.**—There are authorized to be appropriated for “Con-

¹⁵The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$860,885,000: *Provided*, That any payment of arrearages made from these funds shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations, ten percent of said assessment shall be available for obligation only upon a certification to the Congress by the Secretary of State that the United Nations has established an independent office with responsibilities and powers substantially similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$877,222,000, of which not to exceed \$4,000,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure pursuant to section 401(a)(2) of Public Law 103-236 until a certification is made under section 401(b) of said Act: *Provided further*, that certification under section 401(b) of Public Law 103-236 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103-236 at least 15 days in advance of the proposed certification: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”

¹⁶The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, \$401,607,000: *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the following:

Continued

tributions for International Peacekeeping Activities”, \$401,607,000 for the fiscal year 1994 and \$510,204,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) PEACEKEEPING OPERATIONS.—There are authorized to be appropriated for “Peacekeeping Operations”, \$75,623,000 for the fiscal year 1994 and \$75,000,000 for the fiscal year 1995 for the Department of State to carry out section 551 of Public Law 87-195.

(d) SUPPLEMENTAL PEACEKEEPING.—In addition to amounts authorized to be appropriated for such purpose by subsection (b), there are authorized to be appropriated \$670,000,000 for “Assessed Contributions for International Peacekeeping Activities” for the period beginning on the date of enactment of this Act and ending September 30, 1995.

(e)¹⁷ INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,000,000 for the fiscal year 1994 and \$6,000,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(f) FOREIGN CURRENCY EXCHANGE RATES.—In addition to amounts otherwise authorized to be appropriated by subsections (a) and (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 and 1995 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$533,304,000, of which not to exceed \$288,000,000 is available to pay arrearages accumulated in fiscal year 1994 and not to exceed \$23,092,000 is available to pay other outstanding arrearages: *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

¹⁷The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“INTERNATIONAL CONFERENCES AND CONTINGENCIES

“For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672, and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, \$6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed \$200,000 may be expended for representation as authorized by 22 U.S.C. 4085.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the same terms and amounts for fiscal year 1995.

(g)¹⁸ WITHHOLDING OF FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated for the United Nations and its affiliated agencies in¹⁹ “Contributions for International Organizations” shall be reduced in the amount of \$118,875,000 for fiscal year²⁰ 1995, and for each year thereafter, until²¹ the President certifies to the Speaker of the House of Representatives and the President of the Senate that no United Nations²² agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones²³ or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)²⁴ for “Salaries and Expenses” \$11,200,000 for the fiscal year 1994 and \$15,358,000 for the fiscal year 1995; and

(B)²⁵ for “Construction” \$14,400,000 for the fiscal year 1994 and \$10,398,000 for the fiscal year 1995.

(2)²⁶ INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission,

¹⁸ 22 U.S.C. 287e note. Functions vested in the President in sec. 107(g) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Assistant Secretary for International Organization Affairs (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁹ Sec. 1(o)(1) of Public Law 103-415 (108 Stat. 4301) inserted “the United Nations and its affiliated agencies in” after “appropriated for”.

²⁰ Sec. 1(o)(2) of Public Law 103-415 (108 Stat. 4301) struck out “each of the fiscal years 1994 and” and inserted in lieu thereof “fiscal year”.

²¹ Sec. 1(o)(3) of Public Law 103-415 (108 Stat. 4301) struck out “unless” and inserted in lieu thereof “until”.

²² Sec. 1(o)(4) of Public Law 103-415 (108 Stat. 4301) struck out “States” and inserted in lieu thereof “Nations”.

²³ Sec. 1(o)(5) of Public Law 103-415 (108 Stat. 4301) struck out “promotes, condones,” and inserted in lieu thereof “promotes and condones”.

²⁴ The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$11,200,00 for “Salaries and Expenses” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided \$12,858,000 for “Salaries and Expenses”.

²⁵ The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$14,400,000 for “Construction” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided \$6,644,000 for “Construction”.

²⁶ The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided the following:

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,290,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the following:

Continued

United States and Canada”, \$740,000 for the fiscal year 1994 and \$740,000 for the fiscal year 1995.

(3)²⁶ INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,550,000 for the fiscal year 1994 and \$3,550,000 for the fiscal year 1995.

(4)²⁷ INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$16,200,000 for the fiscal year 1994 and \$14,669,000 for the fiscal year 1995.

SEC. 104.²⁸ MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182; \$5,800,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.”

²⁷The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided the following:

“INTERNATIONAL FISHERIES COMMISSIONS

“For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$16,200,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided \$14,669,000 for international fisheries commissions.

²⁸Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1994 appropriations levels and conditions were provided in title II of Public Law 103-87 (107 Stat. 940, 941):

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$670,688,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not more than \$11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$49,261,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

For fiscal year 1995, title II of Public Law 103-306 (108 Stat. 1618, 1619) provided the following:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$671,000,000: *Provided*, That not more than \$11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That not less than \$80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

* * * * *

(1) There are authorized to be appropriated for "Migration and Refugee Assistance" for authorized activities, \$589,188,000 for the fiscal year 1994 and \$592,000,000 for the fiscal year 1995.

(2) There are authorized to be appropriated \$80,000,000 for the fiscal year 1994 and \$80,000,000 for the fiscal year 1995 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated \$1,500,000 for the fiscal year 1994 and \$1,500,000 for the fiscal year 1995 for humanitarian assistance, including but not limited to, food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1)²⁹ UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", \$4,275,000 for the fiscal year 1994.

(2)³⁰ ASIA FOUNDATION.—For "Asia Foundation", \$16,000,000 for the fiscal year 1994 and \$16,068,000 for the fiscal year 1995.

SEC. 106. UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

(a)³¹ AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act—

"UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

"For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose."

²⁹The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$4,275,000 for fiscal year 1994.

³⁰The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$16,000,000 for the Asia Foundation, for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided \$10,000,000 for the Asia Foundation.

³¹The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1189), provided the following:

"ARMS CONTROL AND DISARMAMENT AGENCY

"ARMS CONTROL AND DISARMAMENT ACTIVITIES

"For necessary expenses, not otherwise provided, for arms control and disarmament activities, including not to exceed \$100,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), \$53,500,000, of which not less than \$9,500,000 is available until expended only for payment of United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons."

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided the following:

Continued

(1) \$53,500,000 for the fiscal year 1994 and \$59,292,000 for the fiscal year 1995; and

(2) such sums as may be necessary for each of the fiscal years 1994 and 1995 for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

(b) ³² * * *

PART B—AUTHORITIES AND ACTIVITIES

SEC. 121. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.

(a) **END FISCAL YEAR 1994 LEVELS.**—The number of members of the Foreign Service authorized to be employed as of September 30, 1994—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 820 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 1,200, of whom not more than 175 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 250 shall be members of the Senior Foreign Service.

(b) **END FISCAL YEAR 1995 LEVELS.**—The number of members of the Foreign Service authorized to be employed as of September 30, 1995—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 770 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, not to exceed 1,200, of whom not more than 165 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 240 shall be members of the Senior Foreign Service.

(c) **DEFINITION.**—For the purposes of this section, the term “members of the Foreign Service” is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control and disarmament activities, \$54,500,000, of which not less than \$9,500,000 is available until expended only for activities related to the implementation of the Chemical Weapons Convention, and of which not to exceed \$100,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.): *Provided*, That of the budgetary resources available in fiscal year 1995 in this account, \$122,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, ‘procurement’ includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).”

³²Subsec. (b) amended sec. 49 of the Arms Control and Disarmament Act (22 U.S.C. 2589).

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under non-career limited appointments.

(d)³³ **WAIVER AUTHORITY.**—(1) Subject to paragraph (2), the Secretary of State, the Director of the United States Information Agency, or the Administrator of the Agency for International Development³⁴ may waive any limitation under subsection (a) or (b) which applies to the Department of State, the United States Information Agency, or the Agency for International Development,³⁵ as the case may be, to the extent that such waiver is necessary to carry on the foreign affairs functions of the United States.

(2) Not less than 15 days before any agency head implements a waiver under paragraph (1), such agency head shall notify the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such notice shall include an explanation of the circumstances and necessity for such waiver.

* * * * *

SEC. 127.³⁶ CONSULAR AUTHORITIES. * * *

SEC. 128.³⁷ REPORT ON CONSOLIDATION OF ADMINISTRATIVE OPERATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State, jointly with the Director of the United States Information Agency, the Director of the Arms Control and Disarmament Agency, and the Administrator of the Agency for International Development) shall submit, to the Committee on Foreign Affairs³⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate, a report concerning the feasibility of consolidating domestic administrative operations for the Department of State, the Agency for International Development, the Arms Control and Disarmament Agency and the United States In-

³³The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

³⁴Sec. 1(a)(1) of Public Law 103-415 (108 Stat. 4299) struck out “and the Director of the United States Information Agency” and inserted in lieu thereof “, the Director of the United States Information Agency, or the Administrator of the Agency for International Development”.

³⁵Sec. 1(a)(2) of Public Law 103-415 (108 Stat. 4299) struck out “or the United States Information Agency” and inserted in lieu thereof “, the United States Information Agency, or the Agency for International Development”.

³⁶Sec. 127(a) amended “An Act to regulate the issue and validity of passports and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a); see page 1009. Sec. 127(b) amended “An Act to provide for the reorganization of the consular service of the United States”, approved April 5, 1906 (22 U.S.C. 4221).

³⁷The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

³⁸Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

formation Agency. Such report shall include specific recommendations for implementation.

SEC. 129.³⁹ FACILITATING ACCESS TO THE DEPARTMENT OF STATE BUILDING.

(a) **PROCEDURES TO FACILITATE ACCESS.**—The Department of State shall maintain procedures to ensure that the members and staff of the congressional committees of jurisdiction are granted easy access to the Department of State in the conduct of their duties.

(b) **PARKING.**—The Department of State shall also make available adequate parking for members and staff of the congressional committees of jurisdiction in order to facilitate attendance of meetings at the Department of State.

SEC. 130. REPORT ON SAFETY AND SECURITY OF UNITED STATES PERSONNEL IN SARAJEVO.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Affairs³⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to enhance the security and physical safety of United States diplomatic personnel in Sarajevo, Bosnia-Herzegovina.

SEC. 131. PASSPORT SECURITY.

(a) **SENSE OF CONGRESS.**—The Congress strongly urges the Secretary of State to ensure that any new passport issuances should, to the maximum extent practicable—

(1) be secure against counterfeiting, alteration, duplication, or simulation;

(2) be easily verifiable with appropriate inspection by public officials and private and commercial personnel; and

(3) contain only United States-sourced materials and technology.

(b) **REPORT TO CONGRESS.**—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs³⁸ of the House of Representatives detailing actions taken by the Department of State to accomplish the goals set forth in subsection (a).

SEC. 132.⁴⁰ RECORD OF PLACE OF BIRTH FOR TAIWANESE-AMERICANS.

For purposes of the registration of birth or certification of nationality or issuance of a passport⁴¹ of a United States citizen born in Taiwan, the Secretary of State shall permit the place of birth to be recorded as Taiwan.

SEC. 133. TERRORISM REWARDS AND REPORTS.

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

(1)⁴² * * *

³⁹ 22 U.S.C. 2680-2.

⁴⁰ 22 U.S.C. 2705 note.

⁴¹ Sec. 1(r) of Public Law 103-415 (108 Stat. 4302) inserted “or issuance of a passport” after “nationality”.

⁴² Para. (1) amended sec. 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708).

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

(b) ⁴³ ANNUAL REPORTS ON TERRORISM.—* * *

SEC. 134.⁴⁴ PROPERTY AGREEMENTS.

Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act, 1926⁴⁵ (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.

SEC. 135.⁴⁶ CAPITAL INVESTMENT FUND.

(a) ESTABLISHMENT.—There is established within the Department of State a Capital Investment Fund to provide for the procurement and enhancement⁴⁷ of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources.

(b) FUNDING.—Funds otherwise available for the purposes of subsection (a) may be deposited in such Fund.

(c) AVAILABILITY.—Amounts deposited into the Fund shall⁴⁸ remain available until expended.

(d) EXPENDITURES FROM THE FUND.—Amounts deposited in the Fund shall be available for purposes of subsection (a).⁴⁹

(e)⁵⁰ REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

* * * * *

SEC. 140.⁵¹ VISAS.

(a)⁵² SURCHARGE FOR PROCESSING CERTAIN VISAS.—

⁴³Subsec. (b) amended sec. 140(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f); and sec. 304(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

⁴⁴22 U.S.C. 292 note.

⁴⁵Sec. 1(z) of Public Law 103-415 (108 Stat. 4302) inserted “, 1926” after “Act”.

⁴⁶22 U.S.C. 2684a.

⁴⁷Sec. 2209(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), inserted “and enhancement” after “procurement”.

⁴⁸Sec. 2209(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), struck out “are authorized to” and inserted in lieu thereof “shall”.

⁴⁹Sec. 2209(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), struck out “for expenditure to procure capital equipment and information technology” and inserted in lieu thereof “for purposes of subsection (a)”.

⁵⁰Sec. 2209(4) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), amended and restated subsec. (e). It formerly read as follows:

“(e) REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.”

⁵¹Authority in this section delegated to the Secretary of State is further delegated to the Under Secretary of State for Management, pursuant to Public Notice 2003, Delegation of Authority No. 212 (59 F.R. 26332; May 19, 1994).

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of paragraph (1)⁵³ shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

(3) For each of the fiscal years 2000, 2001, and 2002, any amount collected under paragraph (1) that exceeds \$316,715,000 for fiscal year 2000, \$316,715,000 for fiscal year 2001, and \$316,715,000 for fiscal year 2002 may be made available only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.⁵⁴

(b)⁵⁵ **AUTOMATED VISA LOOKOUT SYSTEM.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities.

(c)⁵⁵ **PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.**—

(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration

The paragraph pertaining to “Diplomatic and Consular Programs” in the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1535), provided the following:

“* * * *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2000 and 2001, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2000 and 2001 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended”.

⁵² 8 U.S.C. 1351 note.

⁵³ Sec. 1(bb) of Public Law 103-415 (108 Stat. 4302) struck out “subsection (a)” and inserted in lieu thereof “paragraph (1)”.

⁵⁴ Sec. 231(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), amended and restated the first sentence of para. (3). It previously read as follows: “For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of \$107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.”.

Sec. 231(2) of that Act struck out paras. (4) and (5), which had read as follows:

“(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

“(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.”.

⁵⁵ 8 U.S.C. 1182 note.

and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

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

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious injury, loss of life, or significant destruction of property⁵⁶ in the United States, the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(d)⁵⁵ ACCESS TO THE INTERSTATE IDENTIFICATION INDEX.—

(1) Subject to paragraphs (2) and (3), the Department of State Consolidated Immigrant Visa Processing Center shall have on-line access, without payment of any fee or charge, to the Interstate Identification Index of the National Crime Information Center solely for the purpose of determining whether a visa applicant has a criminal history record indexed in such Index. Such access does not entitle the Department of State to obtain the full content of automated records through the Interstate Identification Index. To obtain the full content of a criminal history record, the Department shall submit a separate request to the Identification Records Section of the Federal Bureau of Investigation, and shall pay the appropriate fee as provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) The Department of State shall be responsible for all one-time start-up and recurring incremental non-personnel costs of establishing and maintaining the access authorized in paragraph (1).

(3) The individual primarily responsible for the day-to-day implementation of paragraph (1) shall be an employee of the Federal Bureau of Investigation selected by the Department of State, and detailed to the Department on a fully reimbursable basis.

(e)⁵⁷ FINGERPRINT CHECKS.—

(1) Effective not later than March 31, 1995, the Secretary of State shall in the ten countries with the highest volume of im-

⁵⁶Sec. 1(d) of Public Law 103-415 (108 Stat. 4299) struck out "serious loss of life or property" and inserted in lieu thereof "serious injury, loss of life, or significant destruction of property".

⁵⁷Sec. 505 of the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1765), inserted subsec. (e) after subsec. (d)(3), redesignated paras. (4) and (5) of subsec. (d) as subssecs. (f) and (g), and further amended those paras. by striking out "procedure" and inserting in lieu thereof "procedures", and by striking out "this subsection" and inserting in lieu thereof "subsections (d) and (e)".

migrant visa issuance for the most recent fiscal year for which data are available require the fingerprinting of applicants over sixteen years of age for immigrant visas. The Department of State shall submit records of such fingerprints to the Federal Bureau of Investigation in order to ascertain whether such applicants previously have been convicted of a felony under State or Federal law in the United States, and shall pay all appropriate fees.

(2) The Secretary shall prescribe and publish such regulations as may be necessary to implement the requirements of this subsection, and to avoid undue processing costs and delays for eligible immigrants and the United States Government.

(f)^{57, 58} Not later than December 31, 1996, the Secretary of State and the Director of the Federal Bureau of Investigation shall jointly submit to the Committee on Foreign Affairs⁵⁹ and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report on the effectiveness of the procedures authorized in subsections (d) and (e).

(g)^{57, 58} Subsections (d) and (e) shall⁶⁰ cease to have effect after December 31, 1997.

* * * * *

SEC. 142. WOMEN'S HUMAN RIGHTS PROTECTION.

(a) SENSE OF CONGRESS.—The Congress makes the following declarations:

(1) The State Department should designate a senior advisor to the appropriate Undersecretary to promote international women's human rights within the overall human rights policy of the United States Government.

(2) The purpose of assigning a special assistant on women's human rights issues is not⁶¹ to segregate such issues, but rather to assure that they are considered along with other human rights issues in the development of United States foreign policy.

(3) A specifically designated special assistant is necessary because,⁶¹ within the human rights field and the foreign policy establishment, the issues of gender-based discrimination and violence against women have long been ignored or made invisible.

(4) The Congress believes that abuses against women would have greater visibility and protection of women's human rights would improve if the advocate were responsible for integrating women's human rights issues into United States foreign policy, bilateral assistance, multilateral diplomacy, trade policy, and democracy promotion.

⁵⁸ Sec. 671(g)(2)(A) of Public Law 104-208 (110 Stat. 3009) amended the indentation of subsections (f) and (g).

⁵⁹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁶⁰ Sec. 671(g)(2)(B) of Public Law 104-208 (110 Stat. 3009) struck out "(g)" and all that follows through "shall", and inserted in lieu thereof "(g) Subsections (d) and (e) shall". However, the subsection remains unchanged, as it read as such after being amended by Public Law 103-317.

⁶¹ Sec. 1(e) of Public Law 103-415 (108 Stat. 4299) struck out a comma after "not" in paragraph (2), and in paragraph (3) inserted a comma after "because".

(b)⁶² CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall notify the Congress of the steps taken to fulfill the objectives detailed in subsection (a).

PART C—DEPARTMENT OF STATE ORGANIZATION

SEC. 161. ORGANIZATION OF THE DEPARTMENT OF STATE.

(a)⁶³ * * *

(b)⁶⁴ APPLICATION.—The amendments made by this section and section 162⁶⁵ shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such amendments become effective, or 90 days after the date of enactment of this Act, whichever comes earlier.

(c)^{64, 66} TRANSITION.—Any officer of the Department of State holding office on the date of the enactment of this Act shall not be required to be reappointed to any other office, at the Department of State at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made by this section and section 162.

(d)⁶⁴ REFERENCES IN OTHER ACTS.—Except as specifically provided in this Act, or the amendments made by this Act, a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by subsection (a) (other than the Inspector General of the Department of State and the Chief Financial Officer of the Department of State) shall be deemed to be a reference to the Secretary of State or the Department of State, as may be appropriate.

(e)⁶⁷ * * * [Repealed—1998]

(f)⁶⁸ * * * [Repealed—1998]

⁶²The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Global Affairs (Department of State Public Notice 2086; sec. 5 of Delegation of Authority No. 214; 59 F.R. 50790).

⁶³Sec. 161(a) amended and restated sec. 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a).

⁶⁴22 U.S.C. 2651a note.

⁶⁵Sec. 1(f)(2) of Public Law 103-415 (108 Stat. 4300) struck out “133” and inserted in lieu thereof “162”.

⁶⁶Functions vested in the President in sec. 161(c) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

⁶⁷Sec. 2301(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-824), struck out subsec. (e). Subsec. 2301(a) of that Act amended sec. 1 of the State Department Basic Authorities Act of 1956 to provide for the “Coordinator for Counterterrorism”. Subsec. (e) formerly read as follows:

“(e) OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM.—Notwithstanding any other provision of this section, for not less than one year after the date of the enactment of this Act there shall be in the Department of State an Office of the Coordinator for Counterterrorism which shall be headed by a Coordinator for Counterterrorism. The office shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism at the Department of State had as of January 20, 1993.”

⁶⁸Sec. 2302 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), struck out subsec. (f), which, amended, had formerly read as follows:

“(f) DEPUTY ASSISTANT SECRETARY FOR BURDENSARING.—

“(1) ESTABLISHMENT.—None of the funds authorized to be appropriated by this Act shall be available for obligation or expenditure during fiscal year 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State the position of Deputy Assistant Secretary for Burdensaring, the incumbent of which shall be an official of ambassadorial rank, appointed by the President by and with the advice and consent of the Senate.

SEC. 162. TECHNICAL AND CONFORMING AMENDMENTS.

(a)-(j) * * *

(k) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—(1) Section 35 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2707) is amended—* * *

(iv) by inserting before paragraph (2) (as so redesignated) the following:

“(1) exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area.”;

(v)-(vi) * * *

(2)⁶⁹ Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.

(3) * * *

(4) * * *

(m)-(q) * * * 70

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PART D—PERSONNEL

SUBPART 1—GENERAL PROVISIONS

* * * * *

SEC. 172. WAIVER OF LIMITATION FOR CERTAIN CLAIMS FOR PERSONAL PROPERTY DAMAGE OR LOSS.

(a)⁷¹ * * *

(b)⁷² RETROACTIVE APPLICATION.—The amendments made by subsection (a) shall apply with respect to claims arising on or after October 31, 1988.

⁶⁹(2) RESPONSIBILITIES.—The Deputy Assistant Secretary for Burdensharing shall perform such duties and exercise such authorities as the Secretary of State shall prescribe, including the following:

“(A) The principal duty of negotiating increased in-kind and financial support (including increased payment of basing costs) by countries allied to the United States for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries.

“(B) In consultation with the Department of Defense, assist in negotiations with the host governments for the recoupment of funds associated with financial commitments from such countries for paying the United States the residual value of United States facilities in such countries that the United States relinquishes to such countries upon the termination of the use of such facilities by the United States.”.

⁶⁹22 U.S.C. 2707 note.

⁷⁰Sec. 162 has no subsec. (l).

⁷¹Subsec. (a) amended 31 U.S.C. 3721(b), relating to claims resulting from emergency evacuation in a foreign country.

⁷²31 U.S.C. 3721 note.

SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.

(a)⁷³ PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

(b)⁷³ AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

(c)⁷³ APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the United States⁷⁴ Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the United States⁷⁴ Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—* * *

* * * * *

SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.

(a) AUDIT AND REVIEW.—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

(b) REPORT.—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁷⁵ of the House of Representatives.

SEC. 176.⁷⁶ ALLOWANCES. * * *

* * * * *

SEC. 178.⁷⁷ MID-LEVEL WOMEN AND MINORITY PLACEMENT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to promote the acquisition and retention of highly qualified, trained, and experienced women and minority personnel within the Foreign Service, to pro-

⁷³ 22 U.S.C. 3965 note.
⁷⁴ Sec. 1(gg) of Public Law 103-415 (108 Stat. 4303) inserted “United States” before Arms Control and Disarmament Agency”.
⁷⁵ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.
⁷⁶ Sec. 176 amended 5 U.S.C. 5924(4)(A) and (B).
⁷⁷ 22 U.S.C. 3922a note.

vide the maximum opportunity for the Foreign Service to meet staffing needs and to acquire the services of experienced and talented women and minority personnel, and to help alleviate the impact of downsizing, reduction-in-force, and budget restrictions occurring in the defense and national security-related agencies of the United States.

(b) **ESTABLISHMENT.**—For each of the fiscal years 1994 and 1995, the Secretary of State shall to the maximum extent practicable appoint to the Foreign Service qualified women and minority applicants who are participants in the priority placement program of the Department of Defense, the Department of Defense out-placement referral program, the Office of Personnel Management Automated Applicant Referral System, or the Office of Personnel Management Interagency Placement Program. The Secretary shall make such appointments through the mid-level entry program of the Department of State under section 306 of the Foreign Service Act of 1980.

(c) ⁷⁸ **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report concerning the implementation of subsection (a) to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include recommendations on methods to improve implementation of the purpose of this section.

SEC. 179.⁷⁹ EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE.

(a) **REFERRAL SYSTEM.**—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

(b) **CERTAIN MEMBERS OF THE FOREIGN SERVICE.**—For purposes of this section, the term “members of the Foreign Service” means any individuals holding career or career candidate appointments⁸⁰ under chapter 3 of the Foreign Service Act of 1980.

* * * * *

SEC. 181. REDUCTION IN FORCE AUTHORITY WITH REGARD TO CERTAIN MEMBERS OF THE FOREIGN SERVICE.

(a) ⁸¹ **IN GENERAL.**—* * *

(b) **MANAGEMENT RIGHTS.**—* * *

⁷⁸The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

⁷⁹22 U.S.C. 4010a note.

⁸⁰Sec. 1(g) of Public Law 103-415 (108 Stat. 4300) struck out “individual holding a career or career candidate appointment” and inserted in lieu thereof “individuals holding career or career candidate appointments”.

⁸¹Sec. 181(a) amended the Foreign Service Act of 1980 by adding a new sec. 611, relating to reductions in force, and made corresponding technical amendments.

(c)⁸² CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system,⁸³ the head of that agency)⁸³ shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.

SEC. 182. RESTORATION OF WITHHELD BENEFITS.

(a)⁸⁴ ELIGIBILITY.—With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense have⁸⁵ approved the employment or the holding of a position pursuant to the provisions of section 1060 of title 10, United States Code, before April 30, 1994,⁸⁶ the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.

(b) TECHNICAL CORRECTION.—Subsection (d) of section 1433 of Public Law 103-160 is repealed.

SUBPART 2—FOREIGN LANGUAGE COMPETENCE WITHIN THE
FOREIGN SERVICE

SEC. 191.⁸⁷ FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE.

(a)⁸⁸ REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations—

(1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit;

(2) establishing a standard that employees will not receive long-term training in more than 3 languages, and requiring that employees achieve full professional proficiency (S4/R4) in 1 language as a condition for training in a third, with exceptions for priority needs of the service at the discretion of the Director General;

(3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least 2 tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the service at the discretion of the Director General;

(4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assign-

⁸² 22 U.S.C. 4010a note.

⁸³ Sec. 1(i) of Public Law 103-415 (108 Stat. 4301) moved the close parenthesis from “system,” to “that agency”.

⁸⁴ 10 U.S.C. 1058 note.

⁸⁵ Sec. 1(j) of Public Law 103-415 (108 Stat. 4301) struck out “has” and inserted in lieu thereof “have”.

⁸⁶ Sec. 1070(d)(7) of the National Defense Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-337; 108 Stat. 2858) struck out “section 1058, title 10, United States Code, before the date of enactment of this Act,” and inserted in lieu thereof “section 1060 of title 10, United States Code, before April 30, 1994.”

⁸⁷ The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

⁸⁸ 22 U.S.C. 3926 note.

ment, and promotion of all Foreign Service Officers of the Department of State, the Agency for International Development, and the United States Information Agency;⁸⁹

(5) requiring the identification of appropriate Washington, D.C. metropolitan area positions as language-designated; and

(6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency.

(b) REPEAL.—Section 164 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4001 note; Public Law 101-246) is repealed.

SEC. 192.⁹⁰ DESIGNATION OF FOREIGN LANGUAGE RESOURCES COORDINATOR.

(a) POLICY.—It is the sense of the Congress that—

(1) the Department of State, by virtue of the Secretary's overall responsibility under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4011(a)) for training and instruction in the field of foreign relations to meet the needs of all Federal agencies, should take the lead in this interagency effort; and

(2) in order to promote efficiency and quality in the training provided by the Secretary of State and other Federal agencies, the Secretary should call upon other agencies to share in the joint management and coordination of Federal foreign language resources.

(b) FOREIGN LANGUAGE RESOURCES COORDINATOR.—

(1) The Secretary of State should appoint a Foreign Language Resources Coordinator (in this subsection referred to as the "Coordinator") who shall be responsible—

(A) for coordinating the efforts of the appropriate agencies of Government—

(i) to strengthen mechanisms for sharing of foreign language resources; and

(ii) to identify Federal foreign language resource requirements in the areas of diplomacy, military preparedness, international security, and other foreign policy objectives; and

(B) for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

(2) All appropriate United States Government agencies maintaining and utilizing Federal foreign language training and related resources shall cooperate fully with any Coordinator.

SEC. 193.⁹¹ FOREIGN LANGUAGE SERVICES.

(a) SURCHARGE FOR CERTAIN FOREIGN LANGUAGE SERVICES.—Notwithstanding any other provision of law, the Secretary of State

⁸⁹Sec. 1(u) of Public Law 103-415 (108 Stat. 4302) inserted before the semicolon " , the Agency for International Development, and the United States Information Agency".

⁹⁰22 U.S.C. 4021 note.

⁹¹22 U.S.C. 2695a. The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services.

(b) USE OF FUNDS.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.

TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS⁹²

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TITLE III—UNITED STATES INTERNATIONAL
BROADCASTING ACT⁹²

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TITLE IV—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS REFORM AND PEACEKEEPING
OPERATIONS⁹³

SEC. 401. UNITED NATIONS OFFICE OF INSPECTOR GENERAL.

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Until a certification is made under subsection (b), the following amounts shall be withheld from obligation and expenditure (in addition to any amounts required to be withheld by any other provision of this Act):

(1) FY 1994 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for “Contributions to International Organizations” for fiscal year 1994, 10 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(2) FY 1995 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for “Contributions to International Organizations” for fiscal year 1995, 20 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(3) SUPPLEMENTAL ASSESSED PEACEKEEPING CONTRIBUTIONS.—Of the funds appropriated for “Contributions for International Peacekeeping Activities” for a fiscal year pursuant to the authorization of appropriations under section 102(d), 50 percent shall be withheld.

(b)⁹⁴ CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President to the Congress that—

(1) the United Nations has established an independent office of Office of Internal Oversight Services⁹⁵ to conduct and super-

⁹² For titles II and III, relating to U.S. informational, educational, and cultural programs, USIA and related agencies, and international broadcasting, see beginning at page 1266.

⁹³ See also in this volume, Section H—United Nations and Other International Organizations.

⁹⁴ Functions vested in the President in sec. 401(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

⁹⁵ Sec. 106(c)(3)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7)

wise objective audits, inspections, and investigations relating to the programs and operations of the United Nations;

(2) the Secretary General of the United Nations has appointed an Office of Internal Oversight Services,⁹⁵ with the approval of the General Assembly, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations;

(3) the Office of Internal Oversight Services,⁹⁵ is authorized to—

(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

(B) have access to all records, documents, and other available materials relating to those programs and operations; and

(C) have direct and prompt access to any official of the United Nations;

(4) the United Nations has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the Office of Internal Oversight Services;⁹⁵

(5) the United Nations has procedures in place designed to ensure compliance with the recommendations of the Office of Internal Oversight Services;⁹⁵ and

(6)⁹⁶ the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.

(c) SPECIALIZED AGENCIES.—United States representatives to the United Nations should promote complete Inspector General access to all records and officials of the specialized agencies of the United Nations, and should strive to achieve such access by fiscal year 1996.

(d) DEFINITION.—For purposes of this part, the term “Inspector General” means the head of an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

SEC. 402. UNITED STATES PARTICIPATION IN MANAGEMENT OF THE UNITED NATIONS.

It is the sense of the Congress that, consistent with the United Nations Charter, United States nationals should have equitable

of Public Law 106-113; 113 Stat. 1536), struck out “Inspector General” and inserted in lieu thereof “Office of Internal Oversight Services” throughout subsec. (b).

⁹⁶Sec. 106(c)(3)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), amended and restated para. (6). It previously read as follows:

“(6) the United Nations has procedures in place to ensure that all annual and other relevant reports submitted by the Inspector General are made available to the General Assembly without modification.”

representation at senior management levels in the United Nations system, especially in the Department for Administration and Management⁹⁷ and in the office of the Inspector General.

SEC. 403. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE FUNDING FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Senate that beginning October 1, 1995, funds made available to the Department of Defense (including funds for "Operation and Maintenance") shall be available for—

(1) United States assessed or voluntary contributions for United Nations peacekeeping operations, or

(2) the unreimbursable incremental costs associated with the participation of United States Armed Forces in any United Nations peacekeeping operation (other than an operation necessary to protect American lives or United States national interests),

only to the extent that the Congress has authorized, appropriated, or otherwise approved funds for such purposes.

SEC. 404. ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.—The Permanent Representative of the United States to the United Nations should make every effort to ensure that the United Nations completes an overall review and reassessment of each nation's assessed contributions for United Nations peacekeeping operations. As part of the overall review and assessment, the Permanent Representative should make every effort to advance the concept that, when appropriate, host governments and other governments in the region where a United Nations peacekeeping operation is carried out should bear a greater burden of its financial cost.

(b)⁹⁸ LIMITATION ON UNITED STATES CONTRIBUTIONS.—

(1) FISCAL YEARS 1994 AND 1995.—Funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for fiscal years 1994 and 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 30.4 percent of the total of all assessed contributions for that operation, notwithstanding the last sentence of the paragraph headed "Contributions to International Organizations" in Public Law 92-544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note).

(2)⁹⁹ SUBSEQUENT FISCAL YEARS.—Funds authorized to be appropriated for "Contributions for International Peacekeeping

⁹⁷ As enrolled. Should read "Management".

⁹⁸ 22 U.S.C. 287e note.

⁹⁹ Sec. 911(d) of the United Nations Reform Act of 1999 (title IX of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536)), provided the following:

"(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995."

For full text of sec. 911 and other freestanding provisions of the United Nations Reform Act of 1999, see beginning at page 2224.

Activities” for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

(3)¹⁰⁰ * * *

SEC. 405. UNITED STATES PERSONNEL TAKEN PRISONER WHILE SERVING IN MULTINATIONAL FORCES.

It is the sense of the Congress that—

(1) the President should take immediate steps, unilaterally and in appropriate international bodies, to assure that any United States military personnel serving as part of a multinational force who are captured are accorded protections equivalent to those accorded to prisoners of war under the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(2) the President should also take all necessary steps to bring to justice all individuals responsible for any mistreatment or torture of, or for causing the death of, United States military personnel who are captured while serving in a multinational force.

SEC. 406.¹⁰¹ TRANSMITTALS OF CERTAIN UNITED NATIONS DOCUMENTS. * * *

SEC. 407.¹⁰² CONSULTATIONS AND REPORTS.

(a) * * * [Repealed—1999]

(b)¹⁰³ * * *

SEC. 408.¹⁰⁴ TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS. * * *

SEC. 409.¹⁰⁵ REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) **ASSESSED CONTRIBUTIONS.**—For assessed contributions authorized to be appropriated for “Assessed Contributions to International Organizations” by this Act, the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United

¹⁰⁰ Para. (3) amended Public Law 92-544, relating to contributions to the United Nations.

¹⁰¹ Sec. 406 amended sec. 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b).

¹⁰² Formerly at 22 U.S.C. 287b note. Subsec. (a), pertaining to Presidential consultations with Congress on the status of U.N. peacekeeping operations, was repealed by sec. 724(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536). Sec. 724(a)(1) of that Act amended and restated sec. 4(e) of the United Nations Participation act of 1945; see page 2212.

¹⁰³ Subsec. (b) amended sec. 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b).

¹⁰⁴ Sec. 408 added a new sec. 520 to the Foreign Assistance Act of 1961 (22 U.S.C. 2321n), relating to transfers of excess defense articles for international peacekeeping operations.

¹⁰⁵ 22 U.S.C. 287e note. Functions vested in the President in sec. 409 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205). The Secretary of State delegated functions authorized under subsections (b) and (d) to the Assistant Secretary for International Organization Affairs, but retained the authorities in subsec. (a) (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

States and other member states that are the major financial contributors to such assessed budgets.

(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on Foreign Affairs¹⁰⁶ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

(d) REPORT TO CONGRESS.—Not later than February 1 of each year, the President shall submit to the Congress a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

(e)¹⁰⁷ * * *

SEC. 410.¹⁰⁸ LIMITATION ON CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS.

The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

SEC. 411. UNITED NATIONS SECURITY COUNCIL MEMBERSHIP.

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

(1) The effectiveness of the United Nations Security Council in maintaining international peace and security depends on its being representative of the membership of the United Nations.

(2) The requirement of equitable geographic distribution in Article 23 of the United Nations Charter requires that the members of the Security Council of the United Nations be chosen by nondiscriminatory means.

(3) The use of informal regional groups of the General Assembly as the sole means for election of the nonpermanent members of the Security Council is inherently discriminatory

¹⁰⁶ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁰⁷ Subsec. (e) repealed sec. 162(a) through (d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

¹⁰⁸ 22 U.S.C. 287e note.

in the absence of guarantees that all member states will have the opportunity to join a regional group, and has resulted in discrimination against Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should direct the Secretary of State to request the Secretary General of the United Nations to seek immediate resolution of the problem described in this section. The President shall inform the Congress of any progress in resolving this situation, together with the submission to Congress of the request for funding for the “Contributions to International Organizations” account of the Department of State for the fiscal year 1995.

SEC. 412. REFORMS IN THE WORLD HEALTH ORGANIZATION.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that United States contributions to the World Health Organization (WHO) should be utilized in the most effective and efficient manner possible, particularly for the reduction of diseases and disabilities in developing countries.

(b) POLICY.—The President shall direct the United States representatives to the World Health Assembly, the Executive Board, and the World Health Organization to monitor the activities of the World Health Organization to ensure that such organizations achieve—

(1) the timely implementation of reforms and management improvements, including those outlined in the resolutions of the 46th World Health Assembly related to the external Auditor (WHA 46.21), the Report of the Executive Board on the WHO Response to Global Change (WHA 46.16) and actions for Budgetary Reform (WHA 46.35); and

(2) the effective and efficient utilization and monitoring of resources, including—

(A) the determination of strategic and financial priorities; and

(B) the establishment of realistic and measurable targets in accordance with the established health priorities.

SEC. 413. REFORMS IN THE FOOD AND AGRICULTURE ORGANIZATION.

In light of the longstanding efforts of the United States and the other major donor nations to reform the Food and Agriculture Organization (FAO) and the findings of the ongoing investigation of the General Accounting Office, the Congress makes the following declarations:

(1) It should be the policy of the United States to promote the following reforms in the Food and Agriculture Organization:

(A) Decentralization of the administrative structure of FAO, including eliminating redundant or unnecessary headquarters staff, increased responsibilities of regional offices, increased time for consideration of budget issues by member states, and a more meaningful and direct role for member states in the decisionmaking process.

(B) Reform of the FAO Council, including formation of an executive management committee to provide oversight of management.

(C) Limitation of the term of the Director General and the number of terms which an individual may serve.

(D) Restructuring of the Technical Cooperation Program (TCP), including reducing the number of nonemergency projects funded through the TCP and establishing procedures to deploy TCP consultants, supplies, and equipment in a timely manner.

(2) In an effort to increase the presence of United States personnel at the international food agencies and to enhance the professionalism of these institutions, it should be the policy of the United States, to the maximum extent practicable, to utilize existing personnel programs such as the United States Department of Agriculture Associate Professional Officer program to place United States personnel with unique skills in the Food and Agriculture Organization, the International Fund for Agricultural Development, and the World Food Program.

SEC. 414. SENSE OF CONGRESS REGARDING ADHERENCE TO UNITED NATIONS CHARTER.

It is the sense of the Congress that—

(1) the President should seek an assurance from the Secretary General of the United Nations that the United Nations will comply with Article 100 of the United Nations Charter;

(2) neither the Secretary General of the United Nations nor his staff should seek or receive instructions from any government or from any other authority external to the United Nations; and

(3) the President should report to Congress when he receives such assurance from the Secretary General of the United Nations.

SEC. 415.¹⁰⁹ DESIGNATED CONGRESSIONAL COMMITTEES.

For purposes of this part, the term “designated congressional committees” means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs¹⁰⁶ of the House of Representatives.

PART B—GENERAL PROVISIONS AND OTHER INTERNATIONAL ORGANIZATIONS

SEC. 421. AGREEMENT ON STATE AND LOCAL TAXATION.

The President is authorized to bring into force for the United States the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, which was signed by the United States on April 21, 1992, except that, notwithstanding the provisions of Article 1.B of such Agreement, such Agreement shall not require any refunds of monies paid with respect to tax years ending on or before December 31, 1993.

SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.

The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Min-

¹⁰⁹ 22 U.S.C. 287b note.

isters of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex.

SEC. 423.¹¹⁰ INTERNATIONAL BOUNDARY AND WATER COMMISSION.
* * *

SEC. 424. UNITED STATES MEMBERSHIP IN THE ASIAN-PACIFIC ECONOMIC COOPERATION ORGANIZATION.

(a) **UNITED STATES MEMBERSHIP.**—The President is authorized to maintain membership of the United States in the Asian-Pacific Economic Cooperation (APEC).

(b) **PAYMENT OF ASSESSED CONTRIBUTIONS.**—For fiscal year 1994 and for each fiscal year thereafter, the United States assessed contributions to APEC may be paid from funds appropriated for “Contributions to International Organizations”.

SEC. 425. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL COPPER STUDY GROUP.

(a) **UNITED STATES MEMBERSHIP.**—The President is authorized to accept the Terms of Reference of and maintain membership of the United States in the International Copper Study Group (ICSG).

(b) **PAYMENTS OF ASSESSED CONTRIBUTIONS.**—For fiscal year 1995 and thereafter the United States assessed contributions to the ICSG may be paid from funds appropriated for “Contributions to International Organizations”.

SEC. 426.¹¹¹ EXTENSION OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES. * * *

SEC. 427. INTER-AMERICAN ORGANIZATIONS.

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, it is the sense of the Congress that the Secretary of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

SEC. 428. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL COFFEE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Coffee Organization.

SEC. 429. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL JUTE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Jute Organization.

¹¹⁰Sec. 423 amended various Public Laws relating to the International Boundary and Water Commission, United States and Mexico.

¹¹¹Sec. 426 amended the International Organizations Immunities Act (22 U.S.C. 288f-4) to classify the International Union for Conservation of Nature and Natural Resources as an international organization for purposes of that Act.

SEC. 430.¹¹² MIGRATION AND REFUGEE AMENDMENTS. * * ***SEC. 431. WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.**(a)¹¹³ * * *(b)¹¹⁴ UNITED NATIONS DEVELOPMENT PROGRAM.—

(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, \$11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internationally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, \$27,600,000 may be available only if the President certifies to the Congress that—

(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

(B) such programs address unforeseen urgent humanitarian concerns, or

(C) a democratically elected government in Burma has agreed to such programs.

TITLE V—FOREIGN POLICY

PART A—GENERAL PROVISIONS

SEC. 501.¹¹⁵ UNITED STATES POLICY CONCERNING OVERSEAS ASSISTANCE TO REFUGEES AND DISPLACED PERSONS.

(a) STANDARDS FOR REFUGEE WOMEN AND CHILDREN.—The United States Government, in providing for overseas assistance and protection of refugees and displaced persons, shall seek to address the protection and provision of basic needs of refugee women and children who represent 80 percent of the world's refugee population. As called for in the 1991 United Nations High Commissioner for Refugees (UNHCR) "Guidelines on the Protection of Ref-

¹¹²Sec. 430 amended the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601), and repealed sec. 745 of Public Law 100-204 (22 U.S.C. 2601 note).

¹¹³Subsec. (a) amended sec. 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227); see *Legislation on Foreign Relations Through 2001*, vol. I-A.

¹¹⁴Functions vested in the President in sec. 431(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Assistant Secretary for International Organization Affairs (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

¹¹⁵22 U.S.C. 2601 note.

ugee Women”, whether directly, or through international organizations and nongovernmental voluntary organizations, the Secretary of State shall seek to ensure—

(1) specific attention on the part of the United Nations and relief organizations to recruit and employ female protection officers;

(2) implementation of gender awareness training for field staff including, but not limited to, security personnel;

(3) the protection of refugee women and children from violence and other abuses on the part of governments or insurgent groups;

(4) full involvement of women refugees in the planning and implementation of (A) the delivery of services and assistance, and (B) the repatriation process;

(5) incorporation of maternal and child health needs into refugee health services and education, specifically to include education on and access to services in reproductive health and birth spacing;

(6) the availability of counseling and other services, grievance processes, and protective services to victims of violence and abuse, including but not limited to rape and domestic violence;

(7) the provision of educational programs, particularly literacy and numeracy, vocational and income-generation skills training, and other training efforts promoting self-sufficiency for refugee women, with special emphasis on women heads of household;

(8) education for all refugee children, ensuring equal access for girls, and special services and family tracing for unaccompanied refugee minors;

(9) the collection of data that clearly enumerate age and gender so that appropriate health, education, and assistance programs can be planned;

(10) the recruitment, hiring, and training of more women program professionals in the international humanitarian field; and

(11) gender-awareness training for program staff of the United Nations High Commissioner for Refugees (UNHCR) and nongovernmental voluntary organizations on implementation of the 1991 UNHCR “Guidelines on the Protection of Refugee Women”.

(b) PROCEDURES.—The Secretary of State should adopt specific procedures to ensure that all recipients of United States Government refugee and migration assistance funds implement the standards outlined in subsection (a).

(c) REQUIREMENTS FOR REFUGEE AND MIGRATION ASSISTANCE.—The Secretary of State, in providing migration and refugee assistance, should support the protection efforts set forth under this section by raising at the highest levels of government the issue of abuses against refugee women and children by governments or insurgent groups that engage in, permit, or condone—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without

charges, or other flagrant denial to life, liberty, and the security of person;

(2) the blockage of humanitarian relief assistance;

(3) gender-specific persecution such as systematic individual or mass rape, forced pregnancy, forced abortion, enforced prostitution, any form of indecent assault or act of violence against refugee women, girls, and children; or

(4) continuing violations of the integrity of the person against refugee women and children on the part of armed insurgents, local security forces, or camp guards.

(d) INVESTIGATION OF REPORTS.—Upon receipt of credible reports of abuses under subsection (c), the Secretary of State should immediately investigate such reports through emergency fact-finding missions or other means of investigating such reports and help identify appropriate remedial measures.

(e) MULTILATERAL IMPLEMENTATION OF THE 1991 UNHCR “GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN”.—The Secretary of State should work to ensure that multilateral organizations fully incorporate the needs of refugee women and children into all elements of refugee assistance programs and work to encourage other governments that provide refugee assistance to adopt refugee assistance policies designed to encourage full implementation of the 1991 UNHCR’s “Guidelines on the Protection of Refugee Women”.

SEC. 502. INTERPARLIAMENTARY EXCHANGES.

(a)¹¹⁶ AUTHORIZATIONS OF APPROPRIATIONS.— * * *

(b)¹¹⁷ DEPOSIT OF FUNDS IN INTEREST-BEARING ACCOUNTS.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100-202 (101 Stat. 1329-23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.

SEC. 503. FOOD AS A HUMAN RIGHT.

(a) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

(1) IN GENERAL.—The United States should, in accordance with its international obligations and in keeping with the long-standing humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF ASSISTANT SECRETARY OF STATE.—The responsibilities of the Assistant Secretary of State who is responsible for human rights and humanitarian affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

¹¹⁶Subsec. (a) amended sec. 2 of Public Law 86-420 and sec. 2 of Public Law 86-42.

¹¹⁷22 U.S.C. 276 note.

(b) INTERNATIONAL EFFORT TO STRENGTHEN THE RIGHT TO FOOD.—It is the sense of the Congress that a major effort should be made to strengthen the right to food in international law to assure the access of all persons to adequate food supplies.

SEC. 504. TRANSPARENCY IN ARMAMENTS.

It is the sense of the Congress that—

(1) no sale of any defense article or defense service should be made, no license should be issued for the export of any defense article or defense service, and no agreement to transfer in any way any defense article or defense service should be made to any nation that does not fully furnish all pertinent data to the United Nations Register of Conventional Arms pursuant to United Nations General Assembly Resolution 46/36L by the reporting date specified by such register;

(2) if a nation has not submitted the required information by the reporting date of a particular year, but subsequently submits notification to the United Nations that it intends to provide such information at the next reporting date, an agreement may be negotiated with the nation or a license may be issued, but the actual delivery of such defense article or service should not occur until that nation submits such information; and

(3) the President should seek to restart the United Nations Security Council “Perm-5” talks and should report to the Congress on the progress of such talks and the effects of United States agreements since October 1991 to sell arms to the developing world.

SEC. 505. SENSE OF THE SENATE CONCERNING INSPECTOR GENERAL ACT.

It is the sense of the Senate that—

(1) there is a growing concern among some of the Members of this body that the unlimited terms of Office of Inspectors General in Federal agencies may be undesirable, therefore

(2) the issue of amending the Inspector General Act to establish term limits for Inspectors General should be examined and considered as soon as possible by the appropriate committees of jurisdiction.

SEC. 506. TORTURE CONVENTION IMPLEMENTATION.

(a) ¹¹⁸ * * *

(b) * * *

(c) ¹¹⁹ EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 507. UNITED STATES POLICY CONCERNING IRAQ.

(a) POLICY.—It is the sense of the Congress that the President should—

(1) take steps to encourage the United Nations Security Council—

¹¹⁸ Subsec. (a) added a new chapter 113B to 18 U.S.C.

¹¹⁹ 18 U.S.C. 2340 note.

- (A) to reaffirm support for the protection of all Iraqi Kurdish and other minorities pursuant to Security Council Resolution 688;
- (B) to maintain the United Nations embargo on the Iraqi regime until Iraq complies with all relevant Security Council resolutions;
- (C) to consider lifting selectively the United Nations embargo on the areas under the administration of the democratically-elected leadership of Iraqi Kurdistan, subject to the verifiable conditions that—
- (i) the inhabitants of such areas do not conduct trade with the Iraqi regime, and
 - (ii) the partial lifting of the embargo will not materially assist the Iraqi regime;
- (D) to consider extending international protection, including the establishment of a safe haven, to the marsh Arabs in southern Iraq; and
- (E) to pursue international judgments against Iraqi officials responsible for war crimes and crimes against humanity, based upon documentary evidence obtained from Iraqi and other sources;
- (2) continue to advocate the maintenance of Iraq's territorial integrity and the transition to a unified, democratic Iraq;
- (3) take steps to encourage the provision of humanitarian assistance for the people fleeing from the marshes in southern Iraq;
- (4) design a multilateral assistance program for the people of Iraqi Kurdistan to support their drive for self-sufficiency; and
- (5) take steps to intensify discussions with the Government of Turkey, whose support and cooperation in the protection of the people of Iraqi Kurdistan is critical, to ensure that the stability of both Turkey and the entire region are enhanced by the measures taken under this section.

SEC. 508. HIGH-LEVEL VISITS TO TAIWAN.

It is the sense of the Congress that—

- (1) the President should be commended for meeting with Taiwan's Minister of Economic Affairs during the Asia-Pacific Economic Cooperation Conference in Seattle;
- (2) the President should send Cabinet-level appointees to Taiwan to promote United States interests and to ensure the continued success of United States business in Taiwan; and
- (3) in addition to Cabinet-level visits, the President should take steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member.

SEC. 509. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE ALLIES STOCKPILE TO THE REPUBLIC OF KOREA.

(a) **AUTHORITY.**—(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence

of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are equipment, tanks, weapons, repair parts, and ammunition that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of enactment of this Act, are located in a stockpile in the Republic of Korea.

(b) CONCESSIONS.—The value of the concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) ADVANCE NOTIFICATION OF TRANSFER.—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs¹²⁰ of the House of Representatives, and the congressional defense committees a notification of the proposed transfer. The notification shall identify the items to be transferred and the concessions to be received.

(d) EXPIRATION OF AUTHORITY.—No transfer may be made under the authority of this section more than two years after the date of the enactment of this Act.

SEC. 510. EXTENSION OF THE FAIR TRADE IN AUTO PARTS ACT OF 1988.

(a) IN GENERAL.—Section 2125 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4704) is amended by striking “1993” and inserting “1998”.

(b)¹²¹ EFFECTIVE DATE.—The amendment made by this section shall take effect on December 30, 1993.

SEC. 511. REPORT ON THE USE OF FOREIGN FROZEN OR BLOCKED ASSETS.

Not later than 60 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹²⁰ of the House of Representatives a report containing a detailed accounting analysis and justification for all expenditures made from the assets of foreign governments that have been frozen or blocked by the United States Government, including expenditures from frozen or blocked assets of Haiti, Iraq, and Iran.

¹²⁰Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹²¹15 U.S.C. 4704 note.

SEC. 512.¹²² EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

* * *

SEC. 513. POLICY REGARDING THE CONDITIONS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

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

(1) In an Executive Order of May 28, 1993, the President established conditions for renewal of most-favored-nation (MFN) status for the People's Republic of China in 1994.¹²³

(2) The Executive Order requires that in making a recommendation about the further extension of MFN status to China, the Secretary of State shall not recommend extension unless the Secretary determines that—

(A) extension will substantially promote the freedom of emigration objectives of section 402 of the Trade Act of 1974; and

(B) China is complying with the 1992 bilateral agreement between the United States and China concerning prison labor.

(3) The Executive Order further requires that in making a recommendation, the Secretary of State shall determine whether China has made overall, significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the non-violent expression of their political and religious beliefs, including such expression of religious beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;

(D) protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive Order further requires the Executive Branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses, and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Chinese government should cooperate with international efforts to obtain North Korea's full, unconditional compliance with the Nuclear Non-Proliferation Treaty.

(6) The President has initiated an intensive high-level dialogue with the Chinese government which began last year with a meeting between the Secretary of State and the Chinese For-

¹²²Sec. 512 amended secs. 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167).

¹²³Executive Order 12850 (58 F.R. 31327).

eign Minister, including a meeting in Seattle between the President and the President of China, meetings in Beijing with the Secretary of the Treasury, the Assistant Secretary for Human Rights and others, a recent meeting in Paris between the Secretary of State and the Chinese Foreign Minister, and recent meetings in Washington with several Under Secretaries and their Chinese counterparts.

(7) The President's efforts have led to some recent progress on some issues of concern to the United States.

(8) Notwithstanding this, substantially more progress is needed to meet the standards in the President's Executive Order.

(9) The Chinese government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress critics and failed to control abuses by its own security forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President of the United States should use all appropriate opportunities, in particular more high-level exchanges with the Chinese government, to press for further concrete progress toward meeting the standards for continuation of MFN status as contained in the Executive Order.

SEC. 514.¹²⁴ IMPLEMENTATION OF PARTNERSHIP FOR PEACE.

(a) REPORT TO CONGRESS.—The President shall submit annually, beginning 90 days after the date of enactment of this Act, a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹²⁰ of the House of Representatives on the implementation of the "Partnership for Peace" initiative, including an assessment of the progress made by former members of the Warsaw Treaty Organization in meeting the criteria for full membership articulated in Article 10 of the North Atlantic Treaty, wherein any other European state may, by unanimous agreement, be invited to accede to the North Atlantic Treaty if it is in a position to further the principles of the Treaty and to contribute to the security of the North Atlantic area.

(b)¹²⁵ AUTHORITY OF THE PRESIDENT.—The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United

¹²⁴ 22 U.S.C. 1928 note. Sec. 205 of the NATO Participation Act of 1994 (title II of Public Law 103-447; 108 Stat. 4697) provided the following:

"SEC. 205. REPORTING REQUIREMENT.

"The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

"(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination pursuant to section 203(d).

"(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d)."

¹²⁵ Functions vested in the President in sec. 514(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country.

SEC. 515. POLICY TOWARD THAILAND, CAMBODIA, LAOS, AND BURMA.

It is the sense of the Congress that—

(1) the creation of a new Cambodian government through United Nations sponsored elections offers a unique opportunity for the revival of the Cambodian nation, an opportunity which the United States should help realize;

(2) the President should enunciate a clear policy toward Burma and, in so doing, be guided by the approach in Senate Resolution 112;¹²⁶

(3) the government and people of Thailand are to be commended for Thailand's return to civilian, democratic rule, and for its contribution to the implementation of the Paris Peace Accords on Cambodia;

(4) the President of the United States should convey to Thailand United States concern over the continued support for the Khmer Rouge by elements of the Thai military and to urge the Thai Government to intensify its efforts to terminate that support, in accordance with the Paris Peace Accords;

(5) the Government of Thailand should continue to allow the democratic leaders of Burma to operate freely within Thailand and to grant them free passage to allow them to present their case at the United Nations and other international gatherings;

(6) the President of the United States should urge the Government of Thailand to prosecute, with the full force of law, those responsible for the trafficking, forced labor, and physical and sexual abuse of women and children in Thailand, and to protect the civil and human rights of Burmese women in Thailand and prevent their further victimization; and

¹²⁶ Senate Resolution 112, agreed to in the Senate May 27, 1993, provided the following:

"Urging sanctions to be imposed against the Burmese government, and for other purposes.

"Whereas the military junta in Burma known as the State Law and Order Restoration Council (in this preamble referred to as the 'SLORC') brutally suppressed peaceful democratic demonstrations in September 1988;

"Whereas the Senate of the United States has repeatedly condemned and continues its condemnation of the SLORC;

"Whereas the SLORC does not represent the people of Burma, since the people of Burma gave the National League for Democracy a clear victory in the election of May 27, 1990;

"Whereas the SLORC has held Daw Aung San Suu Kyi, a leader of the National League for Democracy and the winner of the Nobel Peace Prize for 1991, under house arrest since July 1989;

"Whereas the United Nations Human Rights Commission unanimously adopted on March 5, 1993, a resolution deploring the human rights situation in Burma and the continued arrest of Daw Aung San Suu Kyi; and

"Whereas on March 12, 1992, the Committee on Foreign Relations of the Senate unanimously stated that (1) the SLORC does not represent the Burmese people and should transfer power to the winners of the 1990 elections, (2) United States military attaché should be withdrawn from Burma, and (3) the United States should oppose United Nations Development Program funding for Burma: *Now, therefore, be it*

Resolved, That it is the sense of the Senate that the President, the Secretary of State, and other United States Government representatives should—

"(1) seek the immediate release of Daw Aung San Suu Kyi from arrest and the transfer of power to the winners of the 1990 elections in Burma; and

"(2) encourage the adoption by the United Nations Security Council of an arms embargo and other sanctions against the regime of the State Law and Order Restoration Council in Burma.

"SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State."

(7) the United States should work with the United Nations High Commissioner for Refugees, the Government of Thailand, and other relevant parties to ensure that the rights of asylum seekers in Thailand, and in particular the Hmong people from Laos, are fully respected and that force is not used in any repatriations.

SEC. 516. PEACE PROCESS IN NORTHERN IRELAND.

It is the sense of the Congress that the United States should—

- (1) strongly encourage all parties to the conflict in the North of Ireland to renounce violence and to participate in the current search for peace in the region; and
- (2) assist in furthering the peace process where appropriate.

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

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

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

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

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

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

(5) Since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character.

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

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

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

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

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

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

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

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

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

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

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

(c) REQUIRED REPORT.—Not later than 14 days after the date of enactment of this Act the President shall submit to the Committee on Foreign Relations of the Senate a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

SEC. 518. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States Senate will not consent to the ratification of a treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international nature which permits representatives of any terrorist organization, including but not limited to the Palestine Liberation Organization, or citizens, nationals or residents of any country listed by the Secretary of State under section 6(j) of the Export Administration Act of 1979 as having repeatedly provided support for acts of international terrorism, to sit in judgement¹²⁷ on American citizens.

SEC. 519. PROTECTION OF FIRST AND FOURTH AMENDMENT RIGHTS.

The United States Senate will not consent to the ratification of any Treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international character unless American citizens are guaranteed, in the terms establishing such a court, and in the court's operation, that the court will take no action infringing upon or diminishing their rights under the First and Fourth Amendments of the Constitution of the United States, as interpreted by the United States.

SEC. 520. POLICY ON TERMINATION OF UNITED STATES ARMS EMBARGO.

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

(1) On July 10, 1991, the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and defense services to Yugoslavia.

(2) On September 25, 1991, the United Nations Security Council adopted Resolution 713, which imposed a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

¹²⁷ As enrolled. Should read "judgment".

(3) The United States considered the policy adopted July 10, 1991, to comply fully with Resolution 713 and therefore took no additional action in response to that resolution.

(4) On January 8, 1992, the United Nations Security Council adopted Resolution 727, which decided that the mandatory arms embargo imposed by Resolution 713 should apply to any independent states that might thereafter emerge on the territory of Yugoslavia.

(5) On February 29 and March 1, 1992, the people of Bosnia and Herzegovina voted in a referendum to declare independence from Yugoslavia.

(6) On April 7, 1992, the United States recognized the Government of Bosnia and Herzegovina.

(7) On May 22, 1992, the Government of Bosnia and Herzegovina was admitted to full membership in the United Nations.

(8) Consistent with Resolution 727, the United States has continued to apply the policy adopted July 10, 1991, to independent states that have emerged on the territory of the former Yugoslavia, including Bosnia and Herzegovina.

(9) Subsequent to the adoption of Resolution 727 and Bosnia and Herzegovina's independence referendum, the siege of Sarajevo began and fighting spread to other areas of Bosnia and Herzegovina.

(10) The Government of Serbia intervened directly in the fighting by providing significant military, financial, and political support and direction to Serbian-allied irregular forces in Bosnia and Herzegovina.

(11) In statements dated May 1 and May 12, 1992, the Conference on Security and Cooperation in Europe declared that the Government of Serbia and the Serbian-controlled Yugoslav National Army were committing aggression against the Government of Bosnia and Herzegovina and assigned to them prime responsibility for the escalation of bloodshed and destruction.

(12) On May 30, 1992, the United Nations Security Council adopted Resolution 757, which condemned the Government of Serbia for its continued failure to respect the territorial integrity of Bosnia and Herzegovina.

(13) Serbian-allied irregular forces have occupied approximately 70 percent of the territory of Bosnia and Herzegovina, committed gross violations of human rights in the areas they have occupied, and established a secessionist government committed to eventual unification with Serbia.

(14) The military and other support and direction provided to Serbian-allied irregular forces in Bosnia and Herzegovina constitutes an armed attack on the Government of Bosnia and Herzegovina by the Government of Serbia within the meaning of Article 51 of the United Nations Charter.

(15) Under Article 51, the Government of Bosnia and Herzegovina, as a member of the United Nations, has an inherent right of individual or collective self-defense against the armed attack from the Government of Serbia until the United

Nations Security Council has taken measures necessary to maintain international peace and security.

(16) The measures taken by the United Nations Security Council in response to the armed attack on Bosnia and Herzegovina have not been adequate to maintain international peace and security.

(17) Bosnia and Herzegovina have been unable successfully to resist the armed attack from Serbia because it lacks the means to counter heavy weaponry that Serbia obtained from the Yugoslav National Army upon the dissolution of Yugoslavia, and because the mandatory international arms embargo has prevented Bosnia and Herzegovina from obtaining from other countries the means to counter such heavy weaponry.

(18) On December 18, 1992, with the affirmative vote of the United States, the United Nations General Assembly adopted Resolution 47/121, which urged the United Nations Security Council to exempt Bosnia and Herzegovina from the mandatory arms embargo imposed by Resolution 713.

(19) In the absence of adequate measures to maintain international peace and security, continued application to the Government of Bosnia and Herzegovina of the mandatory international arms embargo imposed by the United Nations Security Council prior to the armed attack on Bosnia and Herzegovina undermines that government's right of individual or collective self-defense and therefore contravenes Article 51 of the United Nations Charter.

(20) Bosnia and Herzegovina's right of self-defense under Article 51 of the United Nations Charter includes the right to ask for military assistance from other countries and to receive such assistance if offered.

(b) **POLICY ON TERMINATION OF ARMS EMBARGO.**—(1) It is the sense of the Congress that the President should terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) As used in this subsection, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) **POLICY ON MILITARY ASSISTANCE.**—The President should provide appropriate military assistance to the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

SEC. 521. SENSE OF SENATE ON RELATIONS WITH VIETNAM.

It is the sense of the Senate that—

(1) the Government of the United States is committed to seeking the fullest possible accounting of American servicemen unaccounted for during the war in Vietnam;

(2) cooperation by the Government of Vietnam on resolving the fate of those American servicemen unaccounted for has increased significantly over the last three years and is essential to the resolution of outstanding POW/MIA cases;

(3) substantial and tangible progress has been made in the POW/MIA accounting process;

(4) cooperative efforts between the United States and Vietnam should continue in order to resolve all outstanding questions concerning the fate of Americans missing-in-action;

(5) United States senior military commanders and United States personnel working in the field to account for United States POW/MIAs in Vietnam believe that lifting the United States trade embargo against Vietnam will facilitate and accelerate the accounting efforts;

(6) therefore, in order to maintain and expand further United States and Vietnamese efforts to obtain the fullest possible accounting, the President should lift the United States trade embargo against Vietnam expeditiously; and

(7) moreover,¹²⁸ as the United States and Vietnam move toward normalization of relations, the Government of Vietnam should demonstrate further improvements in meeting internationally recognized standards of human rights.

SEC. 522. REPORT ON SANCTIONS ON VIETNAM.

Not later than 30 days after the date of enactment of this Act, the President shall submit a report, taking into account information available to the United States Government, to the Senate and the House of Representatives on achieving the fullest possible accounting of United States personnel unaccounted for from the Vietnam War, including—

(1) progress on recovering and repatriating American remains from Vietnam;

(2) progress on resolution of discrepancy cases;

(3) the status of Vietnamese cooperation in implementing trilateral investigations with Laos; and

(4) progress on accelerated efforts to obtain all POW/MIA related documents from Vietnam.

SEC. 523.¹²⁹ REPORT ON PEOPLE'S MUJAHEDDIN OF IRAN.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Affairs¹³⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate a report detailing the structure,

¹²⁸ As enrolled. Should read "moreover".

¹²⁹ Functions vested in the President in sec. 523 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).

¹³⁰ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

current activities, external support, and history of the People's Mujaheddin of Iran. Such report shall include information on any current direct or indirect support by the People's Mujaheddin for acts of international terrorism.

(b) CONSULTATION.—In compiling the report required under subsection (a), the President shall consult with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Transportation, the intelligence community, and such law enforcement agencies as may be appropriate.

(c) CLASSIFICATION.—The President should, to the maximum extent possible, submit the report required under subsection (a) in an unclassified form.

SEC. 524. AMENDMENTS TO THE PLO COMMITMENTS COMPLIANCE ACT. * * *

SEC. 525. FREE TRADE IN IDEAS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.

(b)¹³¹ * * *

(2)¹³² The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.

(c)¹³³ AMENDMENTS TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—* * *

(2)¹³⁴ The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date.

(3)¹³⁴ Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.

¹³¹Subsec. (b) amended sec. 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

¹³²50 U.S.C. app. 5 note.

¹³³Subsec. (c) amended sec. 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)).

¹³⁴50 U.S.C. 1702 note.

SEC. 526. EMBARGO AGAINST CUBA.

It is the sense of the Congress that the President should advocate and seek a mandatory international United Nations Security Council embargo against the dictatorship of Cuba.

SEC. 527.¹³⁵ EXPROPRIATION OF UNITED STATES PROPERTY.

(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described in subsection (d))—

(1) has on or after January 1, 1956—

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either—

(A) returned the property,

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

(b)¹³⁶ OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

(1) 3 years after the date on which a claim was filed,

(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

(3) 90 days after the date of enactment of this Act.

¹³⁵ 22 U.S.C. 2370a.

¹³⁶ In a memorandum of January 4, 1995, for the Secretary of the Treasury, the President delegated to the Secretary of the Treasury the functions under sec. 527(b) (60 F.R. 3335).

(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

(e)¹³⁷ RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

(f)¹³⁸ REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

(3) The period of time in which each such claim has been outstanding.

(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

(g)¹³⁹ WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

(h) DEFINITIONS.—For the purpose of this section, the term “United States person” means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

SEC. 528.¹⁴⁰ REPORT ON RUSSIAN MILITARY OPERATIONS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—Not later than 5 months after the date of enactment of this Act, the President shall submit to Congress a re-

¹³⁷ Functions vested in the President in sec. 527(e) were delegated to the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Economic, Business and Agricultural Affairs (Department of State Public Notice 2086; sec. 3 of Delegation of Authority No. 214; 59 F.R. 50790).

¹³⁸ The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Economic, Business and Agricultural Affairs (Department of State Public Notice 2086; sec. 3 of Delegation of Authority No. 214; 59 F.R. 50790).

¹³⁹ Functions vested in the President in sec. 527(g) were delegated to the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

¹⁴⁰ Functions vested in the President in sec. 528 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of

port on the operations and activities of the armed forces of the Russian Federation, including elements purportedly operating outside the chain of command of the armed forces of the Russian Federation, outside the borders of the Russian Federation and, specifically, in the other independent states that were a part of the former Soviet Union and in the Baltic States.

(b) **CONTENT OF REPORT.**—The report required by subsection (a) shall include, but not be limited to—

(1) an assessment of the numbers and types of Russian armed forces deployed in each of the other independent states of the former Soviet Union and in the Baltic States and a summary of their operations and activities since the demise of the Soviet Union in December 1991;

(2) a detailed assessment of the involvement of Russian armed forces in conflicts in or involving Armenia, Azerbaijan, Georgia, Moldova, and Tajikistan, including support provided directly or indirectly to one or more parties to these conflicts;

(3) an assessment of the political and military objectives of the operations and activities discussed in paragraphs (1) and (2) and of the strategic objectives of the Russian Federation in its relations with the other independent states of the former Soviet Union and the Baltic States;

(4) an assessment of other significant actions, including political and economic, taken by the Russian Federation to influence the other independent states of the former Soviet Union and the Baltic States in pursuit of its strategic objectives; and

(5) an analysis of the new Russian military doctrine adopted by President Yeltsin on November 2, 1993, with particular regard to its implications for Russian policy toward the other independent states of the former Soviet Union and the Baltic States.

(c) **DEFINITIONS.**—For the purposes of this section—

(1) “the other independent states of the former Soviet Union” means Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(2) “the Baltic States” means Latvia, Lithuania, and Estonia.

SEC. 529. UNITED STATES POLICY ON NORTH KOREA.

It is the sense of the Congress that:

(1) It is in the United States national security interest to curtail the proliferation of weapons of mass destruction, particularly nuclear weapons.

(2) The North Korea nuclear weapons program is one of the most pressing national security challenges the United States currently faces.

(3) North Korea’s development of other weapons of mass destruction and of ballistic missiles further threatens United States national security interests and regional security.

(4) United States policy should ensure that North Korea does not possess a nuclear bomb or the capability to build one.

(5) United States forces in Korea must remain vigilant and maintain a robust defense posture.

(6) While diplomacy is the preferable method of dealing with the North Korean nuclear challenge, all options, including the appropriate use of force, remain available.

(7) In fashioning an appropriate policy for dealing with the challenge presented by North Korea's nuclear program, the Administration should consult closely with United States treaty allies, particularly Japan and the Republic of Korea, as well as with China, Russia, and other members of the United Nations Security Council.

(8) United States policy should support the efforts of the International Atomic Energy Agency (IAEA), as the international community's designated body for verifying compliance with the Treaty on the Nonproliferation of Nuclear Weapons,¹⁴¹ to perform inspections of North Korea's nuclear program.

(9) The United States should encourage strong and expeditious action by the United Nations Security Council inasmuch as North Korea has proved unwilling to comply fully with the following:

(A) North Korea's December 1991 denuclearization agreement with South Korea pledging not to possess, manufacture, or use nuclear weapons, not to possess plutonium reprocessing facilities, and to negotiate the establishment of a nuclear inspection system.

(B) The nuclear safeguards agreement North Korea signed with the IAEA on January 30, 1992.

(C) The agreement on IAEA inspections North Korea accepted on February 15, 1994.

(10) Unless North Korea unequivocally adheres to the Treaty on the Nonproliferation of Nuclear Weapons¹⁴¹ and abides by all provisions of that treaty, the President should seek international consensus to isolate North Korea, including the imposition of sanctions, in an effort to persuade Pyongyang to halt its nuclear weapons program and permit IAEA inspections of all its nuclear facilities.

(11) Recognizing that within the international community China has significant influence over Pyongyang, the nature and extent of Chinese cooperation with the rest of the international community on the North Korean nuclear issue, including Chinese support for international sanctions should such sanctions be proposed and/or adopted, will inevitably be a significant factor in United States-China relations.

(12) If unable to achieve an international consensus to isolate North Korea, the President should employ all unilateral means of leverage over North Korea, including, but not limited to, the prohibition of any transaction involving the commercial sale of any good or technology to North Korea.

(13) The President should consult with United States allies in the region regarding the military posture of North Korea

¹⁴¹Sec. 1(dd) of Public Law 103-415 (108 Stat. 4302) struck out "Nuclear Nonproliferation Treaty" at each point it appeared in sec. 529, and inserted in lieu thereof "Treaty on the Nonproliferation of Nuclear Weapons".

and the ability of the United States and its allies to deter a North Korean attack, or to defeat such an attack should it occur.

(14) Toward these ends, the United States and South Korea should take all steps necessary to ensure that United States and South Korean forces stationed on the Korean peninsula can defend themselves, including the holding of Team Spirit or other joint military exercises, the deployment of Patriot missiles to South Korea, and other appropriate measures.

(15) The problem posed by North Korea's nuclear program is not a bilateral problem between the United States and North Korea, but a problem in which virtually the entire global community is united against North Korea.

(16) The international community must insist upon full compliance by North Korea with all its nonproliferation commitments including acceptance of regular and ad hoc inspections of its declared nuclear facilities on a continuing basis, as well as special inspections of all suspected nuclear sites as the IAEA deems appropriate.

(17) International concerns about North Korea's nuclear intentions and capabilities will not be adequately addressed until North Korea cooperates fully with the IAEA, all North Korea nuclear facilities and materials are placed under fullscope safeguards, and North Korea adheres unequivocally to the Treaty on the Nonproliferation of Nuclear Weapons¹⁴¹ as well as to its 1991 denuclearization agreement with South Korea.

(18) The Administration should work to encourage a productive dialogue between North and South Korea that adequately addresses all security concerns on the Korean peninsula.

SEC. 530.¹⁴² ENFORCEMENT OF NONPROLIFERATION TREATIES.

(a) **POLICY.**—It is the sense of the Congress that the President should instruct the United States Permanent Representative to the United Nations to enhance the role of that institution in the enforcement of nonproliferation treaties through the passage of a United Nations Security Council resolution which would state that, any non-nuclear weapon state that is found by the United Nations Security Council, in consultation with the International Atomic Energy Agency (IAEA), to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement would be subjected to international economic sanctions, the scope of which to be determined by the United Nations Security Council.

(b) **PROHIBITION.**—Notwithstanding any other provision of law, no United States assistance under the Foreign Assistance Act of 1961 shall be provided to any non-nuclear weapon state that is found by the President to have terminated, abrogated, or materially violated an IAEA full-scope safeguard agreement or materially violated a bilateral United States nuclear cooperation agreement entered into after the date of enactment of the Nuclear Non-Proliferation Act of 1978.

(c) **WAIVER.**—The President may waive the application of subsection (b) if—

¹⁴² 22 U.S.C. 2429a-2.

(1) the President determines that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security; and

(2) the President reports such determination to the Congress at least 15 days in advance of any resumption of assistance to that state.

SEC. 531. TAIWAN.

In view of the self-defense needs of Taiwan, the Congress makes the following declarations:

(1) Sections 2 and 3 of the Taiwan Relations Act are reaffirmed.

(2) Section 3 of the Taiwan Relations Act take primacy over statements of United States policy, including communiques, regulations, directives, and policies based thereon.

(3) In assessing the extent to which the People's Republic of China is pursuing its "fundamental policy" to strive peacefully to resolve the Taiwan issue, the United States should take into account both the capabilities and intentions of the People's Republic of China.

(4) The President should on a regular basis assess changes in the capabilities and intentions of the People's Republic of China and consider whether it is appropriate to adjust arms sales to Taiwan accordingly.

SEC. 532. WAIVER OF SANCTIONS WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA TO PROMOTE DEMOCRACY ABROAD.

(a)¹⁴³ **AUTHORITY.**—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against the Federal Republic of Yugoslavia those United States-supported programs, projects, or activities involving reform of the electoral process, or the development of democratic institutions or democratic political parties.

(b) **POLICY.**—The President, acting through the United States Permanent Representative to the United Nations, should propose that any action, past or future, by the Security Council pursuant to Article 41 of the United Nations Charter, with respect to the Federal Republic of Yugoslavia, should take account of the exemption described in subsection (a).

SEC. 533.¹⁴⁴ FREEDOM OF INFORMATION EXEMPTION FOR CERTAIN OPEN SKIES TREATY DATA.

(a) **IN GENERAL.**—Data with respect to a foreign country collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the treaty, shall be exempt from disclosure under the Freedom of Information Act—

(1) if the country has not disclosed the data to the public; and

¹⁴³ Functions vested in the President in sec. 532(a) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

¹⁴⁴ 5 U.S.C. 552 note.

(2) if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public.

(b) STATUTORY CONSTRUCTION.—This section constitutes a specific exemption within the meaning of section 552(b)(3) of title 5, United States Code.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term “Freedom of Information Act” means the provisions of section 552 of title 5, United States Code;

(2) the term “Open Skies Consultative Commission” means the commission established pursuant to Article X of the Treaty on Open Skies; and

(3) the term “Treaty on Open Skies” means the Treaty on Open Skies, signed at Helsinki on March 24, 1992.

SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁴⁵ of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government’s role in democracy promotion.

(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.

¹⁴⁵Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

SEC. 535. SENSE OF CONGRESS CONCERNING UNITED STATES CITIZENS VICTIMIZED BY GERMANY DURING WORLD WAR II.

It is the sense of the Congress that United States citizens who were victims of war crimes and crimes against humanity committed by the Government of Germany during the period 1939 to 1945 should be compensated by the Government of Germany.

SEC. 536.¹⁴⁶ REPORTING REQUIREMENTS ON OCCUPIED TIBET.

(a) REPORT ON UNITED STATES-TIBET RELATIONS.—Because Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—

(1) it is the sense of the Congress that the United States should seek to establish a dialogue with those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including promoting bilateral exchanges arranged directly with the Tibetan Government in exile; and

(2) not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, and on conditions in Tibet.

(b) SEPARATE TIBET REPORTS.—

(1) It is the sense of the Congress that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights).

PART B—SPOILS OF WAR ACT**SEC. 551.¹⁴⁷ SHORT TITLE.**

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

SEC. 552.¹⁴⁸ TRANSFERS OF SPOILS OF WAR.

(a) ELIGIBILITY FOR TRANSFER.—Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the

¹⁴⁶ 22 U.S.C. 2656 note. The Secretary of State delegated functions authorized under this section to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁴⁷ 50 U.S.C. 2201 note.

¹⁴⁸ 50 U.S.C. 2201.

same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) **TERMS AND CONDITIONS.**—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

SEC. 553.¹⁴⁹ PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

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

SEC. 554.¹⁵⁰ REPORT ON PREVIOUS TRANSFERS.

Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before the date of enactment of this Act. Such report shall be submitted in unclassified form to the extent possible.

SEC. 555.¹⁵¹ DEFINITIONS.

As used in this part—

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁴⁵ of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives;

(2) the term “enemy” means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term “person” means—

(A) any natural person;

(B) any corporation, partnership, or other legal entity;

and

(C) any organization, association, or group; and

(4) the term “spoils of war” means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

SEC. 556.¹⁵² CONSTRUCTION.

Nothing in this part shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces

¹⁴⁹ 50 U.S.C. 2202.

¹⁵⁰ 50 U.S.C. 2203.

¹⁵¹ 50 U.S.C. 2204.

¹⁵² 50 U.S.C. 2205.

to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

PART C—ANTI-ECONOMIC DISCRIMINATION ACT

SEC. 561.¹⁵³ SHORT TITLE.

This part may be cited as the “Anti-Economic Discrimination Act of 1994”.

SEC. 562. ISRAEL’S DIPLOMATIC STATUS.

It is the sense of the Congress that the Secretary of State should make the issue of Israel’s diplomatic status a priority and urge countries that receive United States assistance to immediately establish full diplomatic relations with the state of Israel.

SEC. 563. POLICY ON MIDDLE EAST ARMS SALES.

(a)¹⁵⁴ * * *

(b)¹⁵⁵ REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.

SEC. 564.¹⁵⁶ PROHIBITION ON CERTAIN SALES AND LEASES.

(a) PROHIBITION.—No defense article or defense service may be sold or leased by the United States Government to any country or

¹⁵³ 22 U.S.C. 2679c note.

¹⁵⁴ Subsec. (a) amended sec. 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

¹⁵⁵ The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁵⁶ 22 U.S.C. 2751 note.

On April 30, 1996, the President issued the following determination (Presidential Determination No. 96-23; 61 F.R. 26029):

“Pursuant to the authority vested in me by Section 564 of the Foreign Relations Authorization Act (“the Act”), Fiscal Years 1994 and 1995, Public Law 103-236, as amended, I hereby:

“(1) determine and certify that the following countries do not currently maintain a policy or practice of sending letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary boycott of Israel:

“Jordan and Mauritania;

“(2) determine that extension of suspension of the application of Section 564(a) of the Act to the following countries until May 1, 1997, will promote the objectives of Section 564:

“Algeria, Bahrain, Bangladesh, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.”

Earlier Presidential Determination No. 95-20, May 1, 1995, may be found at 60 F.R. 22245. In a memorandum of April 24, 1997 (62 F.R. 24797), the President delegated to the Secretary of State the functions in sec. 564.

international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary¹⁵⁷ boycott of Israel, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) WAIVER.—

(1) 1-YEAR WAIVER.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

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

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁴⁵ of the House of Representatives; and

(2) the terms “defense article” and “defense service” have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

SEC. 565.¹⁵⁸ PROHIBITION ON DISCRIMINATORY CONTRACTS.

(a) PROHIBITION.—

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))—

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

See also 48 CFR 625.70.

¹⁵⁷Sec. 1(l) of Public Law 103-415 (108 Stat. 4301) struck out “primary or secondary” and inserted in lieu thereof “secondary or tertiary”.

¹⁵⁸22 U.S.C. 2679c.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking, except that for purposes of this paragraph, the term “United States person” as used in subparagraphs (B) and (C) of section 8(a)(1) of such Act shall be deemed to mean “person”; and

(B) the term “foreign person” means any person other than a United States person as defined in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)). Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b)¹⁵⁹ WAIVER BY SECRETARY OF STATE.—The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c)¹⁵⁹ RESPONSES TO CONTRACT SOLICITATIONS.—(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

“ARAB LEAGUE BOYCOTT OF ISRAEL

“(a) DEFINITIONS.—As used in this clause—

“(1) the term ‘foreign person’ means any person other than a United States person as defined in paragraph (2); and

“(2) the term ‘United States person’ means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent

¹⁵⁹The Secretary of State delegated functions authorized under subsection (b) and (c) to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

“(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

“(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

“(2) discriminating in the award of subcontracts on the basis of religion.”

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)).

(d) REVIEW AND TERMINATION.—(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(e) ¹⁶⁰ * * * [Repealed—1998]

PART D—THE CAMBODIAN GENOCIDE JUSTICE ACT

SEC. 571.¹⁶¹ SHORT TITLE.

This part may be cited as the “Cambodian Genocide Justice Act”.

SEC. 572.¹⁶¹ POLICY.

(a) IN GENERAL.—Consistent with international law, it is the policy of the United States to support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979.

¹⁶⁰Sec. 1336(3) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-790) repealed subsec. (e), which had read as follows:

“(e) UNITED STATES INFORMATION AGENCY.—The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.”

¹⁶¹22 U.S.C. 2656 note.

(b) **SPECIFIC ACTIONS URGED.**—To that end, the Congress urges the President—

(1) to collect, or assist appropriate organizations and individuals to collect relevant data on crimes of genocide committed in Cambodia;

(2) in circumstances which the President deems appropriate, to encourage the establishment of a national or international criminal tribunal for the prosecution of those accused of genocide in Cambodia; and

(3) as necessary, to provide such national or international tribunal with information collected pursuant to paragraph (1).

SEC. 573.¹⁶¹ ESTABLISHMENT OF STATE DEPARTMENT OFFICE.

(a) **ESTABLISHMENT.**—(1) None of the funds authorized to be appropriated by this Act for “Diplomatic and Consular Programs” shall be available for obligation or expenditure during fiscal years 1994 and 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State under the Assistant Secretary for East Asia and Pacific Affairs (or any successor Assistant Secretary) the Office of Cambodian Genocide Investigation (hereafter in this part referred to as the “Office”).

(2) The Office may carry out its activities inside or outside of Cambodia, except that not less than 75 percent of the funds made available for the Office and its activities shall be used to carry out activities within Cambodia.

(b) **PURPOSE.**—The purpose of the Office shall be to support, through organizations and individuals with whom the Secretary of State may contract to carry out the operations of the Office, as appropriate, efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979, including—

(1) to investigate crimes against humanity committed by national Khmer Rouge leaders during that period;

(2) to provide the people of Cambodia with access to documents, records, and other evidence held by the Office as a result of such investigation;

(3) to submit the relevant data to a national or international penal tribunal that may be convened to formally hear and judge the genocidal acts committed by the Khmer Rouge; and

(4) to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia.

(c) ¹⁶² **CONTRACTING AUTHORITY.**—The Secretary of State shall, subject to the availability of appropriations, contract with appropriate individuals and organizations to carry out the purpose of the Office.

(d) **NOTIFICATION TO CONGRESS.**—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the

¹⁶²The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

Committee on Foreign Affairs¹⁶³ and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 with respect to the Office or any of its programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.

SEC. 574.^{161, 164} REPORTING REQUIREMENT.

(a) **IN GENERAL.**—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees—

(1) that describes the activities of the Office, and sets forth new facts learned about past Khmer Rouge practices, during the preceding 6-month period; and

(2) that describes the steps the President has taken during the preceding 6-month period to promote human rights, to support efforts to bring to justice the national political and military leadership of the Khmer Rouge, and to prevent the recurrence of human rights abuses in Cambodia through actions which are not related to United Nations activities in Cambodia.

(b) **DEFINITION.**—For purposes of this section, the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁶³ of the House of Representatives.

PART E—MIDDLE EAST PEACE FACILITATION

SEC. 581. SHORT TITLE.

This part may be cited as the “Middle East Peace Facilitation Act of 1994”.

SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel’s right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

¹⁶³ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁶⁴ Functions vested in the President in sec. 574 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c).¹⁶⁵ The President may continue the suspension for a period or periods of not more than 6 months until March 31, 1996,¹⁶⁶ if, before each such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

¹⁶⁵Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103-125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94-13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94-30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95-12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95-31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95-36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95-50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96-5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96-8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96-20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96-32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96-41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97-17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900); see secs. 538(d), 551, 554, and 562. See also sec. 574 of that Act, which prohibits assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100-204) through June 4, 1998 (Presidential Determination No. 98-8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98-29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98-5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99-25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00-2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000-19; April 21, 2000; 65 F.R. 24852); and through October 17, 2001 (Presidential Determination No. 01-13; April 17, 2001; 66 F.R. 20585).

¹⁶⁶Sec. 1 of Public Law 104-17 (109 Stat. 191) extended this authority from July 1, 1995 to August 15, 1995. Further extensions were provided in Public Law 104-22 (109 Stat. 260)—extending to October 1, 1995; Public Law 104-30 (109 Stat. 277)—extending to November 1, 1995; Public Law 104-47 (109 Stat. 423)—extending to December 31, 1995; and Public Law 104-89 (109 Stat. 960)—extending to March 31, 1996. The latter extensions further provided the following, with appropriate dates adjusted:

“(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.”

(1)¹⁶⁷ CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

¹⁶⁷ Functions vested in the President in sec. 583(b)(1) and (b)(6) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

- (A) renouncing the Arab League boycott of Israel;
 - (B) urging the nations of the Arab League to end the Arab League boycott of Israel;
 - (C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel; and
 - (D) condemning individual acts of terrorism and violence.
- (6)¹⁶⁷ REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5) and on the status of the PLO office in the United States as enumerated in subsection (c)(3).
- (c) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:
- (1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)¹⁶⁸ as it applies with respect to the Palestine Liberation Organization or entities associated with it.
 - (2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the Palestine Liberation Organization or entities associated with it.
 - (3) Section 1003 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989 (22 U.S.C. 5202).
 - (4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)¹⁶⁹ as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.
- (d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—
- (1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs,¹⁷⁰ and the Committee on Appropriations of the House of Representatives; and
 - (2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

¹⁶⁸ For text, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

¹⁶⁹ For text, see *Legislation on Foreign Relations Through 2000*, vol. III.

¹⁷⁰ Sec. 1(a)(2) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

TITLE VI—PEACE CORPS¹⁷¹**SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$219,745,000 for the fiscal year 1994 and \$234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) **AVAILABILITY OF FUNDS.**—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent fiscal year.

SEC. 602.¹⁷² **AMENDMENTS TO THE PEACE CORPS ACT.** * * *

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994¹⁷³

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PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL ACT¹⁷⁴

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TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT¹⁷⁵**SEC. 801. SHORT TITLE.**

This title may be cited as the “Nuclear Proliferation Prevention Act of 1994”.

PART A—REPORTING ON NUCLEAR EXPORTS¹⁷⁶

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PART B—SANCTIONS FOR NUCLEAR PROLIFERATION¹⁷⁷**SEC. 821. IMPOSITION OF PROCUREMENT SANCTION ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION.**

(a) **DETERMINATION BY THE PRESIDENT.**—

¹⁷¹ For other legislation relating to the Peace Corps, see *Legislation on Foreign Relations Through 2001*, vol. I–B.

¹⁷² Sec. 602 amended secs. 10(c) and 10(j) of the Peace Corps Act (22 U.S.C. 2509(c), 2509(j)).

¹⁷³ Part A of title VII, for the most part, contains amendments to the Arms Control and Disarmament Act; 5 United States Code; the Arms Export Control Act (see *Legislation on Foreign Relations Through 2001*, vol. I–A), and Nuclear Non-Proliferation Act of 1978 (see *Legislation on Foreign Relations Through 2001*, vol. IV). For freestanding provisions of part A, see page 1576.

¹⁷⁴ Part B consists entirely of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act (see *Legislation on Foreign Relations Through 2001*, vol. I–A) and the Export Administration Act of 1979 (see *Legislation on Foreign Relations Through 2000*, vol. III).

¹⁷⁵ 22 U.S.C. 3201 note.

¹⁷⁶ Part A amends the Nuclear Non-Proliferation Act of 1978; see *Legislation on Foreign Relations Through 2001*, vol. IV.

¹⁷⁷ Sec. 831 of this Act provided:

“SEC. 831. EFFECTIVE DATE.

“The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.”.

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.—The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term “requisite knowledge” means situations in which a person “knows”, as “knowing” is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may

delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs¹⁷⁸ of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

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

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

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

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

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

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

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

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

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

(E) to medical or other humanitarian items.

¹⁷⁸Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(d) ¹⁷⁹ ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

SEC. 822. ELIGIBILITY FOR ASSISTANCE.

(a) ¹⁸⁰ AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—* * *

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82-7.—Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982,¹⁸¹ made pursuant to section 670(a)(2)

¹⁷⁹The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁸⁰Subsec. (a) amended secs. 3 and 40 of the Arms Export Control Act (22 U.S.C. 2753, 2780).

¹⁸¹Presidential Determination No. 82-7 of February 10, 1982 (47 F.R. 9805), issued as a memorandum for the Secretary of State, read as follows:

of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

(2)¹⁸² * * *

SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) **IN GENERAL.**—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b)¹⁸³ * * *

SEC. 824. PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.

(a) **PROHIBITED ACTIVITY DEFINED.**—For purposes of this section, the term “prohibited activity” means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material;

or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

(b) **PROHIBITION.**—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) **PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.**—If the President determines,¹⁸⁴ that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) **SANCTIONS.**—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

“By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended (“the Act”), I hereby:

“(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

“(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

“(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.”

¹⁸² Para. (2) amended sec. 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)).

¹⁸³ Subsec. (b) amended sec. 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)).

¹⁸⁴ Sec. 157(b)(1) of Public Law 104-164 (110 Stat. 1440) struck out “in writing after opportunity for a hearing on the record” (resulting in a double comma).

(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) SERVICE AS DEPOSITARY.—The person may not serve as a depositary for United States Government funds.

(2) RESTRICTIONS ON OPERATIONS.—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e)¹⁸⁵ CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued under

¹⁸⁵Sec. 157(b)(2) and (3) of Public Law 104-164 (110 Stat. 1440) struck out subsec. (e) and redesignated subsecs. (f) through (k) as subsecs. (e) through (j), respectively. Former subsec. (e) had provided that: "Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code."

subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(f)¹⁸⁵ TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(g)¹⁸⁵ WAIVER.—The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(h)¹⁸⁵ ENFORCEMENT ACTION.—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b); or

(2) any order issued pursuant to subsection (c).

(i)¹⁸⁵ KNOWINGLY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term “knowingly” means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(j)¹⁸⁵ SCOPE OF APPLICATION.—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

SEC. 825.¹⁸⁶ EXPORT-IMPORT BANK. * * *

SEC. 826.¹⁸⁷ AMENDMENT TO THE ARMS EXPORT CONTROL ACT. * * *

SEC. 827.¹⁸⁸ REWARD. * * *

SEC. 828. REPORTS.

(a) ¹⁸⁹ CONTENT OF ACDA ANNUAL REPORT.—* * *

(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term “demarche” means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

* * * * *

SEC. 830. DEFINITIONS.

For purposes of this part—

(1) the term “foreign person” means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term “goods or technology” means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported

¹⁸⁶Sec. 825 amended sec. 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)).
¹⁸⁷Sec. 826(a) added a new chapter 10 to the Arms Export Control Act, relating to nuclear proliferation controls (22 U.S.C. 2799aa *et seq.*). Sec. 826(b) repealed secs. 669 and 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429, 2429a). Sec. 826(c) made corresponding technical amendments.

¹⁸⁸Sec. 827 amended sec. 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)).

¹⁸⁹Sec. 828(a) amended sec. 51(a) of the Arms Control and Disarmament Act.

from the United States, would be goods or technology described in subparagraph (A);

(3) the term “IAEA safeguards” means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term “non-nuclear-weapon state” means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term “special nuclear material” has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term “United States person” means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term “unsafeguarded special nuclear material” means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

SEC. 831. EFFECTIVE DATE.

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY¹⁹⁰

SEC. 841. BILATERAL AND MULTILATERAL INITIATIVES.

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design

¹⁹⁰ See related legislation under “Energy, Natural Resources, and Environment,” in *Legislation on Foreign Relations Through 2001*, vol. IV.

or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

SEC. 842. IAEA INTERNAL REFORMS.

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

SEC. 843. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) CONTENTS OF REPORT.—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

SEC. 844. DEFINITIONS.

As used in this part—

(1) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term “IAEA” means the International Atomic Energy Agency;

(3) the term “near real time material accountancy” means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term “special fissionable material” has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms “IAEA safeguards”, “non-nuclear-weapon state”, “nuclear explosive device”, and “special nuclear material” have the meanings given those terms in section 830 of this Act.

PART D—TERMINATION * * * [Repealed—1996]¹⁹¹TITLE IX—COMMISSION ON PROTECTING AND REDUCING
GOVERNMENT SECRECY**SEC. 901.**¹⁹² **SHORT TITLE.**

This title may be cited as the “Protection and Reduction of Government Secrecy Act”.

SEC. 902.¹⁹² **FINDINGS.**

The Congress makes the following findings:

(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

(4) It has been estimated that private businesses spend more than \$14 billion each year implementing government mandated regulations for protecting classified information.

(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that “more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information”.

(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

SEC. 903.¹⁹² **PURPOSE.**

It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

¹⁹¹ Sec. 157(a) of Public Law 104-164 (110 Stat. 1440) repealed part D, which consisted only of sec. 851, which had provided the following:

“SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.

“On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.”

¹⁹² 50 U.S.C. 401 note.

(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

SEC. 904.¹⁹⁹² COMPOSITION OF THE COMMISSION.

(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the “Commission”).

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

(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title.

(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

SEC. 905.¹⁹⁹² FUNCTIONS OF THE COMMISSION.

The functions of the Commission shall be—

(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

SEC. 906.¹⁹² POWERS OF THE COMMISSION.

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

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

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

(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

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

(c) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(d)¹⁹³ **ASSISTANCE FROM FEDERAL AGENCIES.**—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

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

(e) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

¹⁹³The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

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

SEC. 907.¹⁹² STAFF OF THE COMMISSION.

(a) **IN GENERAL.**—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

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

SEC. 908.¹⁹² COMPENSATION AND TRAVEL EXPENSES.

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

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

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

SEC. 909.¹⁹² SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

SEC. 910.¹⁹² FINAL REPORT OF COMMISSION; TERMINATION.

(a) **FINAL REPORT.**—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

(b) **TERMINATION.**—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

i. Foreign Relations Authorization Act, Fiscal Years 1992 and 1993

Partial text of Public Law 102-138 [H.R. 1415], 105 Stat. 647, approved October 28, 1991; amended by Public Law 102-182 [Chemical and Biological Weapons Control and Warfare Elimination Act of 1991; title III of H.R. 1724], 105 Stat. 1233, approved December 4, 1991; Public Law 102-395 [Department of State and Related Agencies Appropriations Act, 1993; H.R. 5678], 106 Stat. 1828 at 1864, approved October 6, 1992; Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

SECTION 1.¹ SHORT TITLE.

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

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¹ 22 U.S.C. 2651 note.

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TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) DIPLOMATIC AND ONGOING OPERATIONS.—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law (other than the diplomatic security program):

(1)² SALARIES AND EXPENSES.—For “Salaries and Expenses”, of the Department of State \$1,725,005,000 for the fiscal year 1992 and \$1,822,650,000 for the fiscal year 1993.

(2)³ ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For “Acquisition and Maintenance of Buildings Abroad”, \$304,034,000 for the fiscal year 1992 and \$300,192,000 for the fiscal year 1993.

(3)⁴ REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,802,000 for the fiscal year 1992 and \$5,000,000 for the fiscal year 1993.

(4)⁵ EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$7,500,000 for the fiscal year 1992 and \$8,000,000 for the fiscal year 1993.

(5)⁶ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$23,928,000 for the fiscal year 1992 and \$26,650,000 for the fiscal year 1993.

²The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 816), provided \$2,015,335,000 for “Salaries and Expenses” for fiscal year 1992.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1864), provided \$2,134,000,000 for “Salaries and Expenses” for fiscal year 1993.

³For “Acquisition and Maintenance of Building Abroad”, the Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided “\$545,000,000, of which \$100,000,000 is available for construction of chancery facilities in Moscow, U.S.S.R., to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided “\$570,500,000, of which not to exceed \$140,000,000 is available for construction of chancery facilities in Moscow, Russian Federation, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”

⁴The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$4,802,000, for “Representation Allowances”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided \$4,900,000, for “Representation Allowances”.

⁵The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$7,500,000 for “Emergencies in the Diplomatic and Consular Service”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“ * * * \$8,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That not more than \$1,000,000 shall be available for representation expenses.

“In addition, notwithstanding any other provision of law, funds appropriated to the Emergencies in the Diplomatic and Consular Service appropriation in Public Law 102-27, Emergency Supplemental Appropriations Act, Fiscal Year 1991, are available for any and all unforeseen emergencies that may arise in fiscal year 1992 and thereafter, pursuant to the requirements of 31 U.S.C. 3526(e).”

⁶The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$23,037,000, for the “Office of the Inspector General”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), \$15,805,000.”

(6)⁷ PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$13,784,000 for the fiscal year 1992 and \$14,500,000 for the fiscal year 1993.

(7)³ MOSCOW EMBASSY.—For “Acquisition and Maintenance of Buildings Abroad”, subject to the provisions of section 132, for construction of a new United States Embassy office building in Moscow, Soviet Union, \$130,000,000 for fiscal year 1992 and \$130,000,000 for fiscal year 1993. Amounts appropriated under this paragraph are authorized to be available until expended.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the fiscal years 1992 and 1993 for the Department of State to carry out the diplomatic security program:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$299,828,000 for the fiscal year 1992 and \$315,000,000 for the fiscal year 1993. Of the amounts authorized to be appropriated by this paragraph \$4,000,000 is authorized to be appropriated for each of the fiscal years 1992 and 1993 for “counterterrorism, research, and development”.

(2)⁸ PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$11,464,000 for the fiscal year 1992 and \$16,464,000 for the fiscal year 1993.

(c) LIMITATIONS.—

(1) Of the amount authorized to be appropriated for “Emergencies in the Diplomatic and Consular Service” under subsection (a)(4), not more than \$2,000,000 for each of the fiscal years 1992 and 1993 is authorized to be appropriated for activities authorized under subparagraphs (C), (D), (E), (F), (G), (H), and (J) of section 4(b)(2) of the State Department Basic Authorities Act of 1956.

(2) Of the amount authorized to be appropriated for “Salaries and Expenses” under subsection (a)(1)—

(A) \$10,000,000 for each of the fiscal years 1992 and 1993 is authorized to be available for the Foreign Service Institute and the Geographic Bureaus for language training programs;

(B) not more than \$4,100,000 shall be available for fiscal year 1992, and not more than \$5,400,000 shall be available for fiscal year 1993, only for procurement of ADP equipment for the Beltsville Information Management Center;

(C) not more than \$750,000 of the amounts appropriated for fiscal year 1992 are authorized to be available until expended to pay shared costs of the Conference on Security

⁷The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$13,784,000, for “Payment to the American Institute in Taiwan”.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided \$15,543,000.

⁸The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$10,464,000, for “Protection of Foreign Missions and Officials”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided \$10,814,000.

and Cooperation in Europe (CSCE) parliamentary meetings and CSCE parliamentary assessments (including shared costs of the CSCE Secretariat) and any shared costs and assessments for CSCE parliamentary activities for fiscal year 1991;

(D) for the fiscal year 1992—

(i) \$550,000 is authorized for United States preparations and related travel for the 1992 United Nations Conference on Environment and Development (UNCED), for United States contributions to the Voluntary Fund for UNCED, and for United States contributions to the Trust Fund for Preparatory Activities; and

(ii) up to \$25,000 is authorized on a matching grant basis to promote participation in the UNCED and in the UNCED preparatory conferences by nongovernmental organizations; and

(E) \$1,500,000 is authorized to be available for fiscal year 1993 for the Department of State to enter into contracts with the International Career Program in order for students from historically-black colleges and universities to enter into programs of recruitment and training for careers in the Foreign Service and in other areas of international affairs.

(3) Of the amount authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” under subsection (a)(2) not more than \$41,500,000 shall be available for fiscal year 1992, and not more than \$44,700,000 for fiscal year 1993, for administration.

(4) Of the amount authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” under subsection (a)(2) and amounts authorized to be appropriated under section 401 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 a total of not more than \$55,466,000 is authorized to be appropriated for fiscal year 1992 for capital programs.

(5)⁹ Funds authorized to be appropriated by subsection (a)(1) are also authorized to be appropriated under the heading “Repatriation Loans Program Account” for the administrative expenses of such program.

⁹The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans as authorized by 22 U.S.C. 2671 as follows: Cost of direct loans, \$74,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed \$780,000. In addition, for administrative expenses necessary to carry out the direct loan program, \$145,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$624,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$193,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

(6) Amounts appropriated for "Acquisition and Maintenance of Buildings Abroad" pursuant to this section, and made available for new posts in Estonia, Latvia, Lithuania, republics in the Soviet Union, and republics which have declared independence from the Soviet Union, shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

SEC. 102. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.

(a)¹⁰ ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—(1) There are authorized to be appropriated for "Contributions to International Organizations", \$1,120,541,000 for the fiscal year 1992 and \$766,681,000 for the fiscal year 1993 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) Of the amounts authorized to be appropriated under paragraph (1) for fiscal year 1992, not more than \$370,876,000 are authorized to be appropriated to pay arrearages for assessed contributions for prior years, of which not more than \$92,719,000 may be made available for obligation or expenditure during each of the fiscal years 1992, 1993, 1994, and 1995. Authorizations of appropriations for arrearage payments under this subsection shall be available until the appropriations are made.

(3)¹¹ None of the amounts authorized to be appropriated under paragraph (2) shall be disbursed to the United Nations or any af-

¹⁰The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided "* * * \$842,384,000, of which not to exceed \$92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings."

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866; 22 U.S.C. 269a note), provided:

"INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

"For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$913,214,000, of which not to exceed \$92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings."

Sec. 2(c) of the International Peacekeeping Act of 1992 (Public Law 102-311; 106 Stat. 277) authorized the following:

"(c) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated \$53,814,000 for fiscal year 1993 for 'Contributions to International Organizations'."

¹¹In a memorandum of February 10, 1992, the President delegated functions in sections 102(a)(3) and 162(b) and (d), relating to payment to the United Nations and its specialized agencies of U.S. assessments and arrears, to the Secretary of State in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs (57 F.R. 5365; February 14, 1992).

filiated organization until the President reports to the Congress the specific elements of the plan by which the United Nations, and each affiliated organization authorized to receive such funds, intends to expend or otherwise use such funds.

(b)¹² CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—(1) There are authorized to be appropriated for “Contributions to International Peacekeeping Activities”, \$201,292,000 for the fiscal year 1992 and \$72,254,000 for the fiscal year 1993, for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(2) Of the amounts authorized to be appropriated by paragraph (1) for the fiscal year 1992, not more than \$132,423,000 are authorized to be appropriated to pay arrearages, of which not more than \$38,400,000 may be made available for obligation or expenditure during the fiscal year 1992 and not more than \$31,400,000 may be made available for obligation or expenditure for each of the fiscal years 1993, 1994, and 1995. Authorizations of appropriations for arrearage payments under this subsection shall be available until the appropriations are made.¹²

(c)¹³ INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated for “International Conferences and Contingencies”, \$5,500,000 for the fiscal year 1992 and \$5,775,000 for the fiscal year 1993 for the Department of State to

Such functions were further delegated to the Under Secretary for Management, in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs, by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992), as amended by Delegation of Authority 193-3 of June 25, 1992 (Public Notice 1661; 57 F.R. 32042; July 20, 1992).

¹²The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$107,229,000, of which not to exceed \$38,360,000, shall be made available to pay arrearages, for United Nations peacekeeping forces, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, \$460,315,000 of which not to exceed \$21,992,000 is available to pay arrearages: *Provided*, That funds shall be available for the United Nations Transitional Authority in Cambodia (UNTAC) only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for UNTAC equal to those being given to foreign manufacturers and suppliers, and that the United States Mission to the United Nations has established procedures to provide information on all United Nations procurement regulations and solicitations to American manufacturers and suppliers.”

¹³The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$5,500,000, for “International Conferences and Contingencies”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided:

“INTERNATIONAL CONFERENCES AND CONTINGENCIES

“For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, \$5,600,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed \$200,000 may be expended for representation as authorized by 22 U.S.C. 4085.”

carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A)¹⁴ for "Salaries and Expenses" for the fiscal year 1992, \$11,400,000 and, for the fiscal year 1993, \$12,000,000; and

(B)¹⁵ for "Construction" for the fiscal year 1992, \$10,525,000 and, for the fiscal year 1993, \$19,925,000.

(2)¹⁶ INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", \$768,000 for the fiscal year 1992 and \$805,000 for the fiscal year 1993.

(3)¹⁶ INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", \$3,732,000 for the fiscal year 1992 and \$3,920,000 for the fiscal year 1993.

(4)¹⁷ INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", \$14,000,000 for the fiscal year 1992 and \$16,500,000 for the fiscal year 1993.

¹⁴The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$11,400,000, for "Salaries and Expenses", for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided \$11,330,000.

¹⁵The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$10,277,000, for "Construction", for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided \$14,790,000.

¹⁶The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided:

"AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

"For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain."

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided:

"AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

"For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,403,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain."

¹⁷The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$14,000,000, for "International Fisheries Commissions", for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided:

"INTERNATIONAL FISHERIES COMMISSIONS

"For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$14,200,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324."

SEC. 104.¹⁸ MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1)(A) There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$547,250,000 for the fiscal year 1992 and \$592,250,000 for the fiscal year 1993.

(B) Of the amounts authorized to be appropriated by subparagraph (A), \$5,000,000 is authorized to be available for each of the

¹⁸ Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1992 appropriations levels and conditions were provided in H.R. 2621 as passed by the House on June 19, 1991, pursuant to secs. 115 and 116 of Public Law 102-145 (105 Stat. 968). H.R. 2621 provided the following for fiscal year 1992:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$630,000,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than \$1,500,000 shall be available for Tibetan refugees: *Provided further*, That not less than \$1,500,000 shall be available for voluntary repatriation of Hmong refugees from Thailand to Laos through nongovernmental organizations: *Provided further*, That not less than \$315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further*, That not more than \$11,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

Fiscal year 1992 appropriations levels were reduced by 1.4781 percent in sec. 126 of Public Law 102-145, as amended, to \$620,688,000 and \$49,261,000 respectively.

For fiscal year 1993, title II of the Foreign Operations, Export financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391; 106 Stat. 1652) provided the following:

“MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$620,688,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than \$35,000,000 shall be available for refugees in Bosnia, Croatia, and Slovenia: *Provided further*, That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Bosnia, Croatia, and Slovenia, such funds may be used for assistance for any purposes of this heading: *Provided further*, That not less than \$1,500,000 shall be available for Tibetan refugees: *Provided further*, That not less than \$315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further*, That not more than \$11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$49,261,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

fiscal years 1992 and 1993 for migration assistance to displaced ethnic Armenians resettling in Armenia.

(2) There are authorized to be appropriated \$80,000,000 for the fiscal year 1992 and \$90,000,000 for the fiscal year 1993 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated \$1,750,000 for the fiscal year 1992, and \$1,750,000 for the fiscal year 1993, for assistance to unaccompanied minor children and other cases of special humanitarian concern that have generally been referred to special committees established pursuant to the Comprehensive Plan of Action for Indochinese Refugees in first asylum countries in Southeast Asia and Hong Kong. The President shall seek to ensure that such assistance supplements, and does not supplant, United Nations High Commissioner for Refugees and other funding that would have been directed toward assistance to unaccompanied minors and other cases of special humanitarian concern in the absence of this paragraph. Assistance may be provided under this paragraph notwithstanding any other provision of law.

(4) There are authorized to be appropriated \$1,000,000 for fiscal year 1992 and \$1,000,000 for fiscal year 1993 for humanitarian assistance, including but not limited to food, medicine, clothing, and medical and vocational training, to Burmese displaced as a result of civil conflict.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to be available until expended.

SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1)¹⁹ UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Technology Agreements”, \$2,250,000 for the fiscal year 1992 and \$6,000,000 for the fiscal year 1993.

(2)²⁰ SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,784,000 for the fiscal year 1992 and \$5,025,000 for the fiscal year 1993.

(3)²¹ ASIA FOUNDATION.—For “Asia Foundation”, \$16,000,000 for the fiscal year 1992 and \$18,000,000 for the fiscal year 1993.

¹⁹The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$4,500,000, for “United States Bilateral Science and Technology Agreements”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided \$4,500,000.

²⁰The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$4,784,000, for “Soviet-East European Research and Training”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided the following:

“RUSSIAN, EURASIAN, AND EAST EUROPEAN RESEARCH AND TRAINING PROGRAM

“For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, \$4,961,000.”

²¹The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$16,000,000, for “Asia Foundation”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided \$16,693,000.

**PART B—DEPARTMENT OF STATE AUTHORITIES AND
ACTIVITIES**

* * * * *

SEC. 116.²² MULTIYEAR CONTRACTING FOR MOSCOW.

(a) **MULTIYEAR CONTRACT.**—For purposes of this section the term “multiyear contract” means a contract in effect for a period not to exceed five years.

(b) **AUTHORITY.**—The Secretary of State may enter into multiyear contracts for the acquisition of property and the construction of diplomatic facilities in Moscow, as authorized by the Foreign Service Buildings Act, 1926, if—

(1) there are sufficient funds available for United States Government liability for—

(A) total payments under the full term of a contract; or

(B) payments for the first fiscal year for which the contract is in effect, and for all estimated cancellation costs; and

(2) the Secretary of State determines that—

(A) a multiyear contract will serve the best interests of the United States Government by—

(i) achieving economies in administration, performance, and operation;

(ii) increasing quality of performance by, or service from, the contractor; or

(iii) encouraging effective competition; and

(B) a multiyear contract will not inhibit small business concerns from submitting a bid or proposal for such contract.

(c) **CONTRACT PROVISIONS.**—

(1) Unless funds are available for United States liability for payments under the full term of a multiyear contract, a multiyear contract shall provide that United States Government payments and performance under the contract during the second and any subsequent fiscal year of the contract period are contingent on the availability of funds for such year.

(2) A multiyear contract may provide for payment to the contractor of a reasonable cancellation charge for a contingency under paragraph (1).

(3) The Secretary is authorized to use such funds as may be available from the Foreign Service Buildings Fund for payments under paragraph (2).

(d) **SUNSET PROVISION.**—This section shall cease to have effect after September 30, 1993.

* * * * *

²²Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

SEC. 122.²³ ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.

(a) ESTABLISHMENT OF POSITION.—There is established in the Department of State the position of Assistant Secretary of State for South Asian Affairs.²⁴

(b) APPOINTMENT.—The Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c)²⁵ * * * [Repealed—1994]

(d)²⁴ CONFORMING AMENDMENT.—

(1)²⁶ * * * [Repealed—1994]

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall take effect on October 1, 1991.

(e)²⁷ IMPLEMENTATION.—In order to carry out this section, the Secretary of State shall reprogram the position of Deputy Assistant Secretary for South Asian Affairs.

* * * * *

SEC. 125. MAINTENANCE MANAGEMENT OF OVERSEAS PROPERTY.

The Director of the Office of Foreign Buildings Operations shall—

(1) direct overseas posts to make annual building condition assessments of buildings and facilities used by the post;

(2) not later than 90 days after the date of the enactment of this Act, revise the Foreign Affairs Manual to stipulate that the Buildings and Maintenance Handbook shall be used by each post to identify their maintenance needs, standardize their maintenance operations, and conduct annual assessments as required by paragraph (1);

(3) direct the Office of Foreign Buildings Operations to provide proper training and assistance to posts to ensure that annual surveys are effectively completed; and

(4) direct overseas posts to ensure that all maintenance program fiscal transactions are properly encoded in the Department of State accounting system to enable compilation of actual expenditures on routine maintenance and specific maintenance funded by the Office of Foreign Buildings Operations.

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²³ 22 U.S.C. 2652b.

²⁴ Sec. 162(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out “, which is in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652)” in subsec. (a).

²⁵ Sec. 162(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out subsec. (c), which defined the responsibilities of the Assistance Secretary of State for South Asian Affairs as those relating to “India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, Afghanistan, and the Maldives”.

²⁶ Sec. 162(c)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out subsec. (d)(1), which had amended 5 USC 5315 to provide for the position of “Assistant Secretary for South Asian Affairs, Department of State.” in the U.S. Code. See also sec. 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2662), as amended by sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, which states the organization of the Department of State including the establishment of 20 Assistant Secretaries of State (sec. 1(c)).

²⁷ Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

SEC. 128.²⁸ VISA LOOKOUT SYSTEMS.

(a) **VISAS.**—The Secretary of State may not include in the Automated Visa Lookout System, or in any other system or list which maintains information about the inadmissibility²⁹ of aliens under the Immigration and Nationality Act, the name of any alien who is not inadmissible²⁹ from the United States under the Immigration and Nationality Act, subject to the provisions of this section.

(b) **CORRECTION OF LISTS.**—Not later than 3 years after the date of enactment of this Act, the Secretary of State shall—

(1) correct the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, by deleting the name of any alien not excludable under the Immigration and Nationality Act; and

(2) report to the Congress concerning the completion of such correction process.

(c) **REPORT ON CORRECTION PROCESS.**—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of State, in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate congressional committees, a plan which sets forth the manner in which the Department of State will correct the Automated Visa Lookout System, and any other system or list as set forth in subsection (b).

(2) Not later than 1 year after the date of enactment of this Act, the Secretary of State shall report to the appropriate congressional committees on the progress made toward completing the correction of lists as set forth in subsection (b).

(d) **APPLICATION.**—This section refers to the Immigration and Nationality Act as in effect on and after June 1, 1991.

(e) **LIMITATION.**—

(1) The Secretary may add or retain in such system or list the names of aliens who are not excludable only if they are included for otherwise authorized law enforcement purposes or other lawful purposes of the Department of State. A name included for other lawful purposes under this paragraph shall include a notation which clearly and distinctly indicates that such person is not presently excludable. The Secretary of State shall adopt procedures to ensure that visas are not denied to such individuals for any reason not set forth in the Immigration and Nationality Act.

(2) The Secretary shall publish in the Federal Register regulations and standards concerning maintenance and use by the Department of State of systems and lists for purposes described in paragraph (1).

²⁸ 8 U.S.C. 1182 note. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

Sec. 127 of this Act added a new sec. 51 to the State Department Basic Authorities Act (22 U.S.C. 2723), relating to the denial of certain visas.

²⁹ Sec. 308(d)(3)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009) struck out “excludability” and “excludable” and inserted in lieu thereof “inadmissibility” and “inadmissible”.

(3) Nothing in this section may be construed as creating new authority or expanding any existing authority for any activity not otherwise authorized by law.

(f) DEFINITION.—As used in this section the term “appropriate congressional committees” means the Committee on the Judiciary and the Committee on Foreign Affairs³⁰ of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

SEC. 129.³¹ PROHIBITION ON ISSUANCE OF ISRAEL-ONLY PASSPORTS.

(a) PURPOSE.—It is the purpose of this section—

(1) to direct the Secretary of State to seek an end to the policy of the majority of Arab League nations of rejecting passports, and denying entrance visas to persons whose passport or other documents reflect that the holder has visited Israel, and to secure the adoption of policies that assure that travel to such Arab League nations by persons who have visited Israel shall not be unreasonably impeded; and

(2) to prohibit United States Government acquiescence in the policy of the majority of Arab League nations of rejecting Israel by rejecting passports of, and denying entrance visas to, persons whose passport or other documents reflect that the holder has visited Israel, especially with respect to travel by officials of the United States.

(b) NEGOTIATIONS.—The Secretary of State shall immediately undertake negotiations to seek an end to the policy of the majority of Arab League nations of rejecting passports of, and denying entrance visas to, private persons and officials of all nations whose passports or other documents reflect that the holder thereof has visited Israel.

(c) REPORT TO CONGRESS.—The Secretary of State shall submit a report to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Foreign Affairs³⁰ and the Committee on Appropriations of the House of Rep-

³⁰Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

³¹Sec. 503 of the Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 820), provided the following:

“SEC. 503. None of the funds provided in this Act shall be used by the Department of State to issue any passport that is designated for travel only to Israel, and 90 days after the enactment of this Act, none of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States Government employee for the purpose of enabling that employee to acquiesce in or comply with the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passports or other documents reflect that that person has visited Israel.”

Sec. 503 of the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided the following:

“SEC. 503. None of the funds made available by this Act may be obligated or expended by the Department of State for contracts with any foreign or United States firm that complies with the Arab League Boycott of the State of Israel or with any foreign or United States firm that discriminates in the award of subcontracts on the basis of religion: *Provided*, That the Secretary of State may waive this provision on a country-by-country basis upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on the diplomatic functions of the United States.”

Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

In Public Notices 1563 and 1564 of January 22, 1992, the Bureau of Consular Affairs, Department of State, announced the cancellation of all passports that are endorsed as valid only for travel to Israel, effective as of April 25, 1992, to expire on October 28, 2002 (57 F.R. 3454 and 3282; January 29, 1992).

representatives within 60 days of the date of enactment of this Act. The report shall describe the status of efforts to secure an end to the passport and visa policy of the majority of Arab League nations as described in subsection (a), and describe the prospects that such efforts would be successful within 90 days of the date of enactment of this Act.

(d) PROHIBITION ON THE ISSUANCE OF ISRAEL-ONLY PASSPORTS.—

(1) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of State shall not issue any passport that is designated for travel only to Israel.

(2) CANCELLATION.—Not later than ninety days after the date of enactment of this Act, the Secretary of State shall promulgate regulations for the cancellation not later than 180 days after the enactment of this Act of any currently valid passport which is designated for travel only to Israel.

(e) POLICY ON NONACQUIESCENCE.—

(1) REQUIREMENT OF SINGLE PASSPORT.—The Secretary of State shall not issue more than one official or diplomatic passport to any official of the United States Government for the purpose of enabling that official to acquiesce in or comply with the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

(2) IMPLEMENTATION OF POLICY OF NONCOMPLIANCE.—The Secretary of State shall promulgate such rules and regulations as are necessary to ensure that officials of the United States Government do not comply with, or acquiesce in, the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

(3) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), this subsection shall take effect 90 days after the date of enactment of this Act.

(B) If the report under subsection (c) is not submitted within 60 days of the date of enactment of this Act, this subsection shall take effect 60 days after the date of enactment of this Act.

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

* * * * *

SEC. 132.³² CONSTRUCTION OF DIPLOMATIC FACILITIES.

(a)³³ EXTRAORDINARY SECURITY SAFEGUARDS.—In carrying out the reconstruction project for the new chancery building at the

³²Functions vested in the Secretary of State in this section (except sec. 132(f)(2), which was repealed by sec. 803 of Public Law 102-511) were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

Subsecs. (f) and (g) of this section were repealed by sec. 504 of the Department of State and Related Agencies Appropriations Act, 1993 (Public Law 102-395; 106 Stat. 1869). Sec. 803 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) also repealed these subsecs.

Subsequently, subsecs. (a) through (d), and (h) through (j) were repealed by sec. 502(a)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326).

United States Embassy in Moscow, the Secretary of State shall ensure that extraordinary security safeguards are implemented with respect to all aspects of security, including materials, logistics, construction methods, and site access.

(b) SAFEGUARDS TO BE INCLUDED.—Such extraordinary security safeguards under subsection (a) shall include the following:

- (1) Exclusive United States control over the site during reconstruction.
- (2) Exclusive use of United States or non-Soviet materials with respect to the new chancery structure.
- (3) Exclusive use of United States workmanship with respect to the new chancery structure.
- (4) To the extent feasible, prefabrication in the United States of major portions of the new chancery.
- (5) Exclusive United States control over construction materials during the entire logistical process of reconstruction.

SEC. 133.³⁴ * * * [Repealed—1993]

SEC. 134.³⁵ **SPECIAL AGENTS.**

(a) REPORT.—Not later than 180 days after the date of enactment of this act, the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary and Foreign Relations of the Senate and the Committees on the Judiciary and Foreign Affairs³⁶ of the House of Representatives a report and recommendations regarding whether Special Agents of the Diplomatic Security Service should be authorized to make arrests without warrants for offenses against the United States committed in their presence or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

(b) TERMS OF REFERENCE.—The report required by subsection (a) shall address at least the following topics:

- (1) Whether similar arrest authority granted other Federal law enforcement agencies such as the Drug Enforcement Agency, the United States Customs Service, United States Marshals, the Secret Service, and the Federal Bureau of Investigation has on balance served the public interest.
- (2) Whether execution of the existing statutory responsibilities of the Diplomatic Security Service would be furthered by granting of such authority.
- (3) Disadvantages which would be likely to result from granting of such authority, including disadvantages in terms of protection of civil liberties.
- (4) Proposed statutory language which would if enacted provide any such authority recommended.

³³ Sec. 502(a)(2) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) redesignated the remaining subsection (e) as subsec. (a), and made technical adjustments to reflect para. (e)(1) becoming subsec. (a), para. (e)(2) becoming subsec. (b) with catchline, with appropriate indentations and relettering.

³⁴ Sec. 133, relating to possible Moscow Embassy security breach, was repealed by sec. 502(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326).

³⁵ Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

³⁶ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(5) Proposed regulations to implement any such enacted authority.

SEC. 135.³⁷ PROTECTION FOR UNITED NATIONS FACILITIES AND MISSIONS. * * *

(b) PROTECTION OF FOREIGN DIPLOMATIC MISSIONS.—* * *

(5) Protective services provided by a State or local government at any time during the period beginning on January 1, 1989, and ending on September 30, 1991, which were performed in connection with visits described in section 202(8) of title 3, United States Code, as amended by this subsection, shall be deemed to be reimbursement obligations entered into pursuant to section 208(a) of that title as if the amendment made by paragraph (1) of this subsection was in effect during that period and the services had been requested by the Secretary of State.

SEC. 136. STUDY OF CONSTRUCTION SECURITY NEEDS.

Not more than one year after the date of enactment of this Act, the Secretary of State shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report and recommendations regarding security needs for diplomatic construction. The Secretary of State shall review priorities, recommendations, and plans, generally known as the “Inman Report”, and address specifically whether changing budgetary and foreign policy priorities since the “Inman Report” continue to justify the “Inman” recommendations. The report should also assess whether authorizations for “Inman” security activities should be modified or repealed in light of changed conditions.

PART D—PERSONNEL

* * * * *

SEC. 150.³⁸ COMMISSION TO STUDY PERSONNEL QUESTIONS AT THE DEPARTMENT OF STATE.

(a) MEMBERSHIP.—

(1) Within 90 days of the date of enactment of this Act, the Secretary of State shall appoint seven distinguished members, at least six of whom shall have a minimum of ten years experience in personnel management, to examine personnel issues affecting both Foreign Service and Civil Service employees at the Department of State.

(2) Appointments to the Commission shall be made in consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Post Office and Civil Service of the House of Representatives,³⁹ and exclusive representatives

³⁷ Other than the subparagraph shown, sec. 135 amended other legislation.

³⁸ Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

³⁹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abol-

(as defined in section 1002(9) of the Foreign Service Act of 1980).

(3) The Secretary of State may reappoint members who served on the Commission authorized under section 171 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

(4) At least two members of the Commission shall have specialized knowledge of the Civil Service in the Department of State.

(b) IMPLEMENTATION REPORT.—Not later than one year after the date of enactment of this Act, the Commission shall report to the Chairmen and ranking Members of the appropriate committees of the Congress on the extent to which the Department of State has implemented recommendations of the Commission authorized in section 171 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

(c) REPORT ON PERSONNEL MATTERS AND CONDITIONS.—

(1) Not more than one year after the date of enactment of this Act, the Commission shall issue a written report to the appropriate committees of the Congress on State Department personnel questions affecting the effective conduct of foreign policy and the efficiency, cost effectiveness, and morale of State Department employees.

(2) The Commission report required under this subsection shall include the following topics:

(A) Matters related to section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) relating to senior Foreign Service Officers who were working under section 607(d)(2) temporary career extensions on June 2, 1990, and who, because the 14-year time-in-class benefit had been denied them, were involuntarily retired under section 607 after June 2, 1990.

(B) An examination of the contribution of Civil Service personnel to the fulfillment of the mission of the Department of State, including—

(i) recommendations as to how the needs and standing of such employees might be more fully recognized by the Department as full partners in the successful conduct of foreign policy; and

(ii) recommendations as to how Civil Service positions may be better utilized or structured in the Department and abroad to enhance the institutional memory on evolving foreign policy issues.

(C) A study of the management and practices at the United States Mission to the United Nations, taking into account the recommendations of recent reports of the Inspector General of the Department of State.

(d) Definition.—As used in this section the term “appropriate committees of the Congress” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on Appropriations,

ished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

and the Committee on Post Office and Civil Service of the House of Representatives.³⁹

SEC. 151.⁴⁰ FOREIGN NATIONAL EMPLOYEES SEPARATION PAY.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to provide separation pay for foreign national employees of agencies of the United States Government, other than the Department of Defense.

(b) **FUNDING.**—There shall be deposited in such account—

(1) all amounts previously obligated for accrued separation pay of foreign national employees of such agencies of the United States Government; and

(2) amounts obligated for fiscal years after 1991 by such agencies for the current and future costs of separation pay of foreign national employees.

(c) **AVAILABILITY.**—Amounts shall be deposited in the fund annually and are authorized to be available until expended.

(d) **EXPENDITURES FROM THE FUND.**—Amounts deposited in the fund shall be available for expenditure to make separation payments to foreign national employees in countries in which such pay is legally authorized.

* * * * *

SEC. 154. COMPENSATION FOR LOSS OF PERSONAL PROPERTY INCIDENT TO SERVICE.

Not later than 90 days after enactment of this Act, the Department of State shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives, a report on the need for the establishment of a mechanism to compensate employees of the Department of State who have legitimate claims resulting from loss of personal property under circumstances set forth in the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 3721c), and whose losses exceed the amounts covered in such Act. This report shall include legislative recommendations, if necessary, to implement these recommendations. Losses covered by this report shall include legitimate claims for losses incurred in Mogadishu, Somalia.

SEC. 155.⁴¹ LANGUAGE TRAINING IN THE FOREIGN SERVICE.

The Department of State and the Department of Commerce⁴² shall ensure that the precepts for promotion of Foreign Service employees provide that end-of-training reports for employees in full-time language training shall be weighed as heavily as the annual employee efficiency reports, in order to ensure that employees in language training are not disadvantaged in the promotion process.

⁴⁰ 22 U.S.C. 4012a.

⁴¹ 22 U.S.C. 4001 note.

⁴² Sec. 1335(q)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) replaced a comma before "Department of Commerce" with "and", and struck out " , and the United States Information Agency" following the same.

PART E—INTERNATIONAL ORGANIZATIONS

SEC. 161. MATERIAL DONATIONS TO UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Congress that the Permanent Representative of the United States to the United Nations should work to ensure that in-kind contributions by the United States and other nations to the United Nations peacekeeping forces are included at their full value when calculating the contributions to United Nations peacekeeping forces.

SEC. 162.⁴³ REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES. * * * [Subsecs. (a)–(d) Repealed—1994]

(e)⁴⁴ * * *

SEC. 163.⁴⁵ REPORT TO CONGRESS CONCERNING UNITED NATIONS SECONDMENT. * * *

SEC. 164. PERMANENT INTERNATIONAL ASSOCIATION OF ROAD CONGRESSES.

(a) REPEAL.—The Act of June 18, 1926 (22 U.S.C. 269) is repealed.

(b)⁴⁶ AUTHORITY.—The President is authorized to maintain membership of the United States in the Permanent International Association of Road Congresses.

* * * * *

SEC. 168.⁴⁷ BRITISH-AMERICAN INTERPARLIAMENTARY GROUP.

(a) ESTABLISHMENT AND MEETINGS.—Not to exceed 24 Members of Congress shall be appointed to meet annually and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States), with representatives of the House of Commons and the House of Lords of the Parliament of Great Britain for discussion of common problems in the interest of relations between the United States and Great Britain. The Members of Congress so appointed shall be referred to as the “United States group” of the United States Interparliamentary Group.

(b) APPOINTMENT OF MEMBERS.—Of the Members of Congress appointed for purposes of this section—

(1) half shall be appointed by the Speaker of the House of Representatives from among Members of the House (not less than 4 of whom shall be members of the Committee on Foreign Affairs),⁴⁸ and

(2) half shall be appointed by the President Pro Tempore of the Senate, upon recommendations of the majority and minority leaders of the Senate, from among Members of the Senate

⁴³ Sec. 409(e) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 454), struck out subsecs. (a) through (d), relating to assessed contributions to the United Nations and its implementation of consensus-based decisionmaking process.

⁴⁴ Subsec. (e) repealed sections of earlier Foreign Relations Authorization Acts.

⁴⁵ Sec. 163 struck out sec. 701(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 287e note), requiring the Secretary of State to report to Congress on “the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.”

⁴⁶ 22 U.S.C. 269.

⁴⁷ 22 U.S.C. 276l.

⁴⁸ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(not less than 4 of whom shall be members of the Committee on Foreign Relations) unless the majority and minority leaders of the Senate determine otherwise.

(c) CHAIR AND VICE CHAIR.—(1) The Chair or Vice Chair of the House delegation of the United States group shall be a member from the Committee on Foreign Affairs.⁴⁸

(2) The President Pro Tempore of the Senate shall designate the Chair or Vice Chair of the Senate delegation.

(d) FUNDING.—There is authorized to be appropriated \$50,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made, half of which shall be for the House delegation and half of which shall be for the Senate delegation. The House and Senate portions of such appropriations shall be disbursed on vouchers to be approved by the Chair of the House delegation and the Chair of the Senate delegation, respectively.

(e) CERTIFICATION OF EXPENDITURES.—The certificate of the Chair of the House delegation or the Senate delegation of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(f) ANNUAL REPORT.—The United States group shall submit to the Congress a report for each fiscal year for which an appropriation is made for the United States group, which shall include its expenditures under such appropriation.

(g)⁴⁹ INTERPARLIAMENTARY CONFERENCE OF NORTH ATLANTIC ASSEMBLY. * * *

SEC. 169.⁵⁰ UNITED STATES DELEGATION TO THE PARLIAMENTARY ASSEMBLY OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE).

(a) ESTABLISHMENT.—In accordance with the allocation of seats to the United States in the Parliamentary Assembly of the Conference on Security and Cooperation in Europe (hereinafter referred to as the “CSCE Assembly”) not to exceed 17 Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other Conference on Security and Cooperation in Europe (CSCE) member-nations for the purposes of—

(1) assessing the implementation of the objectives of the CSCE;

(2) discussing subjects addressed during the meetings of the Council of Ministers for Foreign Affairs and the biennial Summit of Heads of State or Government;

(3) initiating and promoting such national and multilateral measures as may further cooperation and security in Europe.

(b) APPOINTMENT OF DELEGATION.—For each meeting of the CSCE Assembly, there shall be appointed a United States Delegation, as follows:

(1) In 1992 and every even-numbered year thereafter, 9 Members shall be appointed by the Speaker of the House from

⁴⁹Subsec. (g) amended sec. 5 of the “Joint resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization”, approved July 11, 1956 (22 U.S.C. 1928e).

⁵⁰22 U.S.C. 276m.

Members of the House (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Affairs);⁴⁸ and 8 Members shall, upon recommendations of the Majority and Minority leaders of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Vice Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise).

(2) In every odd-numbered year beginning in 1993, 9 Members shall, upon recommendation of the Majority and Minority Leaders of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise); and 8 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Vice Chairman, shall be from the Committee on Foreign Affairs).⁴⁸

(c) ADMINISTRATIVE SUPPORT.—For the purpose of providing general staff support and continuity between successive delegations, each United States Delegation shall have 2 secretaries (one of whom shall be appointed by the Chairman of the Committee on Foreign Affairs⁴⁸ of the House of Representatives and one of whom shall be appointed by the Chairman of the Delegation of the Senate).

(d) FUNDING.—

(1) UNITED STATES PARTICIPATION.—There is authorized to be appropriated for each fiscal year \$80,000 to assist in meeting the expenses of the United States delegation. For each fiscal year for which an appropriation is made under this subsection, half of such appropriation may be disbursed on voucher to be approved by the Chairman and half of such appropriation may be disbursed on voucher to be approved by the Vice Chairman.

(2) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e) ANNUAL REPORT.—The United States Delegation shall, for each fiscal year for which an appropriation is made, submit to the Congress a report including its expenditures under such appropriation. The certificate of the Chairman and Vice Chairman of the United States Delegation shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States Delegation.

SEC. 170.⁵¹ REPORT CONCERNING THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION.

Not later than 270 days after the date of the enactment of this Act, the Secretary of State (in consultation with the heads of all appropriate bureaus and offices of the Department of State) shall prepare and submit to the Congress a report on the activities after April 30, 1990 of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

* * * * *

SEC. 172. INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE REPORT.

It is the sense of the Congress regarding negotiations taking place in the Intergovernmental Negotiating Committee that the framework convention should seek to provide for commitments by all nations to—

- (1) improved coordination of research activities and monitoring of global climate change;
- (2) adoption of measures that are justified for a variety of reasons and which also have the effect of limiting or adapting to any adverse effects of climate change;
- (3) establishment of national strategies to address climate change and to make public accounting of the elements of such strategy and the effect on net emissions of greenhouse gases;
- (4) establishment of verifiable goals for net reductions of greenhouse gases by all nations in an equitable manner; and
- (5) the development of plans by each country to reach those goals.

* * * * *

SEC. 174.⁵² HOUSING BENEFITS OF THE UNITED STATES MISSION TO THE UNITED NATIONS.

(a) **REVIEW.**—The Secretary of State shall conduct a review and evaluation of policies and procedures for the provision of housing benefits (including leased housing, housing allowances, differential payments, or any comparable benefit) to United States Government personnel assigned to the United States Mission to the United Nations. Such review shall consider the December 1989 recommendations of the Inspector General of the Department of State concerning housing benefits, and other recommendations as appropriate.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a comprehensive report of the findings of such review and evaluation to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include, but not be limited to—

- (1) a summary of all leased housing policy changes;
- (2) information concerning implementation of recommendations of the Inspector General for the Department of State, in-

⁵¹Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁵²Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

cluding an explanation for not implementing any recommendation made by the Inspector General; and

(3) designation of positions at the United States Mission to the United Nations which require the incumbent to live in the Borough of Manhattan, and specific justification for such designation.

SEC. 175.⁵³ ENHANCED SUPPORT FOR UNITED NATIONS PEACEKEEPING.

(a) **ACTIONS BY THE SECRETARY GENERAL OF THE UNITED NATIONS.**—The Secretary of State, through the United States Representative to the United Nations, should propose to the Secretary General of the United Nations that the United Nations should explore means, including procedures and organizational initiative, for expediting the implementation of peacekeeping operations authorized by the Security Council.

(b) **REPORT OF THE SECRETARY OF STATE.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁴⁸ of the House of Representatives, a report which makes recommendations concerning changes in United States law which would enhance the United States participation in peacekeeping operations authorized by the United Nations. Such report shall include legislative recommendations to expedite the use of appropriated funds for peacekeeping purposes on an emergency basis.

SEC. 176. SPECIAL PURPOSE INTERNATIONAL ORGANIZATIONS.

(a) **LIMITATION.**—Of the funds authorized to be appropriated under section 101(a)(1) for “Salaries and Expenses” of the Department of State, \$1,000,000 shall be available only after the submission of the report under subsection (b).

(b) **REPORT TO CONGRESS.**—Not later than March 1, 1992, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the international organizations listed in subsection (c). Such report shall include the following information with respect to each international organization:

- (1) The purpose and activities of the organization.
- (2) The political and economic benefits to the United States of membership in the organization.
- (3) The effect on United States consumers and importers of the activities and policies of the organization.

(c) **SPECIAL PURPOSE INTERNATIONAL ORGANIZATIONS.**—The following international organizations shall be included in the report under this section:

- (1) International Center for the Study of Preservation and Restoration of Cultural Property.
- (2) International Coffee Organization.
- (3) International Cotton Advisory Committee.
- (4) International Hydrographic Organization.

⁵³ Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs, in consultation with the Under Secretary for Management, by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

- (5) International Jute Organization.
- (6) International Lead and Zinc Study Group.
- (7) International Rubber Organization.
- (8) International Office of Epizootics.
- (9) International Organization for Legal Metrology.
- (10) International Rubber Study Group.
- (11) International Sugar Organization.
- (12) International Tropical Timber Organization.
- (13) International Union for the Conservation of Nature and Natural Resources.
- (14) Permanent International Association of Road Congresses.
- (15) World Tourism Organization.

SEC. 177. GREAT LAKES FISHERY COMMISSION.

Of the amounts authorized to be appropriated by section 103(4) of this Act, there is authorized to be appropriated up to \$8,200,000 for fiscal year 1992 and up to \$12,300,000 for fiscal year 1993 for the purpose of enabling the Department of State to carry out its authority, function, duty, and responsibility in the conduct of foreign affairs of the United States in connection with the Great Lakes Fishery Commission.

SEC. 178. INTER-AMERICAN ORGANIZATIONS.

(a) **POLICY.**—Taking into consideration the long-term commitment by the United States to the affairs of this hemisphere and the need to build further upon the linkages between the United States and its neighbors, the Congress believes that the Secretary of State, in allocating the level of resources for the “International Organizations and Commissions” account, should pay particular attention to funding levels of the Inter-American organizations.

(b) **FINDING.**—The Congress finds that the work done by these organizations has been of great benefit to the region, and the United States itself has experienced a positive return from their efforts.

SEC. 179. INTERNATIONAL COFFEE ORGANIZATION.

It is the sense of the Congress that the President should give the highest priority to the interests of United States consumers in shaping United States policy toward a new international coffee agreement.

SEC. 180.⁵⁴ APPOINTMENT OF SPECIAL COORDINATOR FOR WATER POLICY NEGOTIATIONS AND WATER RESOURCES POLICY.

(a) **DESIGNATION.**—The Secretary of State shall designate a Special Coordinator—

- (1) to coordinate the United States Government response to international water resource disputes and needs;
- (2) to represent the United States Government, whenever appropriate, in multilateral fora in discussions concerning access to fresh water; and
- (3) to formulate United States policy to assist in the resolution of international problems posed by the lack of fresh water supplies.

⁵⁴ 22 U.S.C. 2686a. Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(b) OTHER RESPONSIBILITIES.—The individual designated under subsection (a) may carry out the functions of subsection (a) in addition to other assigned responsibilities.

SEC. 181.⁵⁵ EMPLOYMENT OF UNITED STATES CITIZENS BY CERTAIN INTERNATIONAL ORGANIZATIONS.

Not less than 180 days after enactment of this Act, and each year thereafter, the Secretary of State shall submit a report to the Congress concerning each international organization which had a geographic distribution formula in effect on January 1, 1991, of whether each such organization—

- (1) is taking good faith steps to increase the staffing of United States citizens; and
- (2) has met its geographic distribution formula.

PART F—MISCELLANEOUS PROVISIONS

SEC. 191. TRAVEL ADVISORY FOR JALISCO, MEXICO.

Section 134 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 is repealed.⁵⁶

SEC. 192.⁵⁷ IMPLEMENTATION OF THE NAIROBI FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN.

(a) REPORT TO CONGRESS.—Two years after the date of the enactment of this Act, the Secretary of State shall submit to the Congress a report on the progress of the United States implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women (Nairobi Strategies), as adopted by the 40th session of the United Nations General Assembly in Resolution 40/108 on December 13, 1985.

(b) FINAL REPORT.—Not later than 90 days prior to the 1995 deadline for submission of the report to the United Nations Secretary General on the United States implementation of the Nairobi Strategies, the Secretary of State shall submit to the Congress a preliminary version of such report.

SEC. 193. STUDY OF TECHNICAL SECURITY AND COUNTERINTELLIGENCE CAPABILITIES.

(a) STUDY BY INSPECTOR GENERAL.—Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of State shall initiate, with the cooperation of other appropriate Federal agencies, a study of the overseas technical security and counterintelligence capabilities and practices of the Department of State. The study shall be completed not later than one year after the date of enactment of this Act.

(b) CONTENT.—The study shall evaluate—

- (1) the overseas technical security and counterintelligence capabilities of the Department of State since the enactment of

⁵⁵ 22 U.S.C. 276c-4. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁵⁶ Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, recommended that the Secretary of State issue a travel advisory warning U.S. citizens of the current dangers of traveling in the State of Jalisco, Mexico, site of the 1985 murders of two U.S. Drug Enforcement Administration employees and other assaults against U.S. citizens.

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

the Omnibus Diplomatic Security and Antiterrorism Act of 1986;

(2) the level of the State Department's capabilities in technical security and counterintelligence relative to the technical and human intelligence threats identified by other appropriate Federal agencies; and

(3) whether the Department of State is the most appropriate Federal agency to carry out overseas technical security and counterintelligence functions.

(c) **REPORT TO CONGRESS.**—Not later than 400 days after the date of the enactment of this Act, the Inspector General of the Department of State shall prepare and submit, with the cooperation of other appropriate Federal agencies, a written report of the findings of such study to the Committee on Foreign Affairs⁵⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate. The Inspector General may submit such report in classified form.

SEC. 194. STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Department of State has been negligent in carrying out section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, "Study of Sexual Harassment at the Department of State".

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of State shall report to the Committee on Foreign Affairs⁵⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate on the reasons for the Department's negligence in adhering to deadlines required by law in implementing section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and what steps, if any, the Department has taken to prevent such a failure from recurring.

SEC. 195.⁵⁹ PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If it has been finally determined by a court or Federal agency that a person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of State, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

SEC. 196.⁶⁰ DEADLINE FOR RESPONSES TO QUESTIONS FROM CONGRESSIONAL COMMITTEES.

(a) **IN GENERAL.**—An officer or employee of the Department of State to whom a written or oral question is addressed by any member of a committee specified in subsection (b), acting within his offi-

⁵⁸Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁵⁹22 U.S.C. 2679b.

⁶⁰22 U.S.C. 2680-1. Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

cial capacity, shall respond to such question within 21 days unless the Secretary of State submits a letter to such member explaining why a timely response cannot be made.

(b) SPECIFIED COMMITTEES.—The committees referred to in subsection (a) are the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵⁸ of the House of Representatives.

SEC. 197.⁶¹ INTERNATIONAL CREDIT REPORTS.

(a) REPORT ON LOAN CRITERIA.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of State for Economic and Business Affairs, in consultation with the Secretary of the Treasury, shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report setting forth clear criteria for bilateral loans by which the United States can determine the likelihood of repayment by a country seeking to receive United States loans. The report should include the criteria used for—

- (1) assessing country risk;
- (2) projecting loan repayments; and
- (3) estimating subsidy levels.

(b) REPORTS ON LOANS.—Beginning 180 days after the submission of the report in subsection (a) and annually thereafter, the Secretary of State, in consultation with the Secretary of the Treasury, shall submit a report to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives showing actual repayments by country and by program to the United States Government for the previous 5 years and the scheduled repayments to the United States Government for the next 5 years.

SEC. 198.⁶² THE FOREIGN RELATIONS OF THE UNITED STATES HISTORICAL SERIES.

(a)⁶³ AMENDMENT.— * * *

(b)⁶⁴ PREVIOUS ADVISORY COMMITTEE ON HISTORICAL DIPLOMATIC DOCUMENTATION.—The Advisory Committee on Historical Documentation for the Department of State established before the date of enactment of this Act shall terminate on such date.

(c) COMPLIANCE.—

- (1)⁶⁵ The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 (as amended by this section) are met not later than one year after the date of enactment of this Act. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵⁸ of the

⁶¹ 22 U.S.C. 2656h. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Economic and Agricultural Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁶² Functions vested in the Secretary of State in this section (except for that part which added a new 406(a) to the State Department Basic Authorities Act) were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁶³ Sec. 198(a) added a new title IV to the State Department Basic Authorities Act of 1956 (22 U.S.C. 4351 *et seq.*), entitled "Foreign Relations of the United States Historical Series".

⁶⁴ 22 U.S.C. 4356 note.

⁶⁵ 22 U.S.C. 4354 note.

House of Representatives, and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act.

(2)⁶⁶ (A) In order to come into compliance with section 401(c) of the State Department Basic Authorities Act of 1956 (as amended by this section) the Secretary of State shall ensure that, by the end of the 3-year period beginning on the date of the enactment of this Act, all volumes of the Foreign Relations of the United States historical series (FRUS) for the years that are more than 30 years before the end of that 3-year period have been published.

(B) If the Secretary cannot reasonably meet the requirements of subparagraph (A), the Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵⁸ of the House of Representatives and describe how the Department of State plans to meet the requirements of subparagraph (A). In no event shall volumes subject to subparagraph (A) be published later than 5 years after the date of the enactment of this Act.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY⁶⁷

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PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS⁶⁸

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PART C—BUREAU OF BROADCASTING⁶⁹

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PART D—BOARD FOR INTERNATIONAL BROADCASTING⁷⁰

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⁶⁶ 22 U.S.C. 4351 note.

⁶⁷ For text of freestanding provisions in this part relating to the United States Information Agency, see page 1279.

⁶⁸ For text of freestanding provisions in this part relating to the Bureau of Educational and Cultural Affairs, see page 1284.

⁶⁹ For text of freestanding provisions in this part relating to the Bureau of Broadcasting, see page 1502.

⁷⁰ For freestanding provisions in this part relating to the Board for International Broadcasting, see page 1504.

**TITLE III—MISCELLANEOUS FOREIGN POLICY
PROVISIONS**

PART A—FOREIGN POLICY PROVISIONS

SEC. 301.⁷¹ PERSIAN GULF WAR CRIMINALS

(a) **INTERNATIONAL CRIMINAL TRIBUNAL.**—

(1) **PROPOSAL FOR ESTABLISHMENT.**—It is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should propose to the Security Council the establishment of an international criminal tribunal for the prosecution of Persian Gulf war criminals who may not more appropriately be prosecuted in Federal and specially appointed courts of the United States.

(2) **ALTERNATIVE MEANS FOR ESTABLISHMENT.**—If the United Nations Security Council fails to take action to establish an international criminal tribunal for the prosecution of Persian Gulf war criminals, it is the sense of the Congress that the President should work with the partners in the coalition of nations participating in Operation Desert Storm to establish such an international criminal tribunal.

(b) **DESIGNATION OF RESPONSIBILITY AT STATE DEPARTMENT.**—The Secretary of State shall designate a high level official with responsibility for—

(1) the development of a proposal for the prosecution of Persian Gulf War criminals in an international tribunal, including proposing in the United Nations the establishment of such a tribunal, and advising the United States Permanent Representative to the United Nations in any discussion or negotiations concerning such matters;

(2) advising the President on the appropriate jurisdiction for the prosecution of Persian Gulf war criminals; and

(3) supporting and facilitating United States implementation of its duties and responsibilities with respect to any tribunal which may be established for the prosecution of Persian Gulf war criminals.

(c)⁷² **PRESIDENTIAL REPORT.**—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵⁸ of the House of Representatives a report—

(1) setting forth the proposal developed under subsection (b)(1);

⁷¹For other legislation on U.S. policy toward Iraq, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

Sec. 6 of the Iraq Liberation Act (Public Law 105-338; 112 Stat. 3181) provided the following: “SEC. 6. WAR CRIMES TRIBUNAL FOR IRAQ.

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

⁷²In a memorandum of November 26, 1991 (56 F.R. 64551), to the Secretary of State, the President delegated to the Secretary the reporting requirements of this subsection, to be “exercised in consultation with the Secretary of Defense and the Attorney General”.

(2) describing the evidence of crimes under international law that justifies the prosecution of Persian Gulf war criminals before an international criminal tribunal; and

(3) identifying Iraqi authorities who should be prosecuted for committing such crimes.

SEC. 302.⁷³ BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON. * * *

SEC. 303.⁷⁴ REPORTS CONCERNING CHINA.

(a) REPORT TO CONGRESS.—Not later than May 1, 1992 and May 1, 1993, the President shall submit to the Chairmen and Ranking Members of the appropriate congressional committees a report detailing specific progress or lack thereof by the People's Republic of China in the following areas:

(1) Human rights, including—

(A) the surveillance, intimidation, and harassment of Chinese citizens living within China because of their pro-democracy activities;

(B) the surveillance, intimidation, and harassment of Chinese citizens living within the United States because of their pro-democracy activities with particular focus on those whose passports have been confiscated or not renewed in retaliation for pro-democracy activities;

(C) the use of torture or other cruel, inhuman, or degrading treatment or punishment;

(D) political prisoners, including those in Tibet, still held against their will and those who have received amnesty from the Chinese Government for their pro-democracy activities;

(E) prolonged detention without charges and trials, and sentencing of members of the pro-democracy movement for peaceful demonstrations for democracy;

(F) the use of forced labor of prisoners to produce cheap goods for export to countries, including the United States, in violation of labor treaties and United States law;

(G) the Chinese Government's willingness to permit access for international human rights monitoring groups to prisoners, trials, and places of detention; and

(H) the detention and arrest of religious leaders and members of religious groups, including those under house

⁷³Sec. 302 amended sec. 599C of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (5 U.S.C. 5561 note), effective as of the date of enactment of that Act (November 5, 1990).

⁷⁴Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

"Sec. 4. China and Weapons Proliferation. The reporting functions regarding China and weapons proliferation vested in me by sections 303(a)(2) and 324 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate."

In an earlier memorandum of May 18, 1992, the President delegated functions in sections 303 and 324, relating to reports concerning weapons proliferation, human rights, and trade practices in the People's Republic of China, to the Secretary of State in consultation with the Secretary of Defense, Secretary of Commerce, Director of the U.S. ACDA, the USTR (with respect to the functions described in section 303), and other appropriate departments and agencies (57 F.R. 22409; May 28, February 14, 1992).

- arrest, detained, or imprisoned as a result of their expressions of religious belief.
- (2) Weapons proliferation—
- (A) Exports by the People's Republic of China which relate to improving the military capabilities of nations in the Middle East and South Asia, including a description of previous and potential future transfers of—
- (i) M-series ballistic missile systems, and of technology and assistance related to the production of such missile systems;
- (ii) technologies capable of producing weapons-grade nuclear material; and
- (iii) technology and materials needed for the production or use of chemical and biological arms.
- (B) JOINING ARMS SUPPLIER REGIMES.—The adoption of guidelines and restrictions set forth by—
- (i) the Missile Technology Control Regime;
- (ii) the Australia Group on Chemical and Biological arms proliferation; and
- (iii) the Nuclear Suppliers Group.
- (3) Restrictions on trade between the United States and China, which are not described in the National Trade Estimate Report required under section 181 of the Trade Act of 1974, including—
- (A) internal trade barriers to American goods and products, with particular attention paid to those implemented since the Tiananmen Square massacre in 1988;
- (B) regulations established since 1988 to ensure strict control over more than 100 categories of products;
- (C) excessive duties imposed on imports to China;
- (D) excessive licensing requirements for imported goods;
- (E) restrictions on private ownership of property, including capital;
- (F) section 301 violations, including attempts to evade United States import quotas; and
- (G) protection for intellectual property.
- (b) HISTORICAL BACKGROUND.—The report shall also include—
- (1) a compendium of the most significant actions taken by the Chinese government since the Tiananmen Square massacre in each of the areas of the report (human rights, arms sales and nuclear proliferation and trade); and
- (2) a list of the most significant United States actions taken since 1988 to underscore United States concerns about Chinese policies, including consultations and communications encouraging other governments to take similar actions.
- (c) CLASSIFIED ANNEX.—The report may include a classified annex detailing Chinese arms sales and nuclear weapons proliferation activities. All other aspects of the report shall be unclassified.
- (d) APPROPRIATE CONGRESSIONAL COMMITTEES.—The “appropriate congressional committees” referred to in subsection (a) shall include the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs⁵⁸ and the Committee on Ways and Means of the House of Representatives.

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

(a) **REPORTS TO CONGRESS.**—Beginning 90 days after the date of enactment of this Act and every 365 days thereafter, the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies,⁷⁵ shall submit to the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs⁵⁸ and the Committee on Ways and Means of the House of Representatives a report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism. Each such report shall provide a detailed list and description of specific assets.⁷⁶

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

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

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

PART B—ARMS CONTROL AND PROLIFERATION⁷⁷**SEC. 321.**⁷⁸ **LIMITATION ON RESCISSION OF PROHIBITIONS APPLICABLE TO TERRORIST COUNTRIES. * * *****SEC. 322.**⁷⁹ **POLICY ON MIDDLE EAST ARMS SALES.**

In recognition of the particular volatility of the Middle East, the tremendous cost in human lives and suffering in the aftermath of the aggression by Iraq, and imperative that stability be maintained in the region while the course toward lasting peace is pursued, the authority to make sales under the Arms Export Control Act or to furnish military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 shall be exercised with regard to the Middle East for the objectives set forth in law and that the President should—

(1) transfer defense articles and services only to those nations that have given reliable assurances that such articles will be used only for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the

⁷⁵ Sec. 133(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), struck out “Treasury” and inserted in lieu thereof “Treasury, in consultation with the Attorney General and appropriate investigative agencies.”

⁷⁶ Sec. 133(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), added this sentence.

⁷⁷ See other arms control legislation, beginning at page 1543.

⁷⁸ Sec. 321 amended sec. 40(f) of the Arms Export Control Act (22 U.S.C. 2780(f)).

⁷⁹ Sec. 563(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 483), struck out “and” at the end of para. (2); in para. (3) struck out “and” at the end of subpara. (A); replaced the period at the end of subpara. (B) with “; and” and inserted a new subpara. (C).

Sec. 563(b) of that Act required:

“(b) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.”.

United Nations for the purpose of maintaining or restoring international peace and security;

(2) transfer defense articles and services to nations in the region only after it has been determined that such transfers will not contribute to an arms race, will not increase the possibility of outbreak or escalation of conflict and will not prejudice the development of bilateral or multilateral arms control arrangements;

(3) take steps to ensure that each nation of the Middle East that is a recipient of United States defense articles and services—

(A) affirms the right of all nations in the region to exist within safe and secure borders;

(B) supports or is engaged in direct regional peace negotiations; and

(C)⁷⁹ does not participate in the Arab League primary or secondary boycott of Israel.

SEC. 323.⁸⁰ MISSILE TECHNOLOGY. * * *

SEC. 324.⁷⁴ REPORT ON CHINESE WEAPONS PROLIFERATION PRACTICES.

(a) **REQUIREMENT.**—Within 90 days of the enactment of this Act the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁸¹ of the House of Representatives on “Chinese Nuclear, Chemical, Biological, and Missile Proliferation Practices”.

(b) **CONTENT.**—Such report shall be transmitted in classified and unclassified forms and shall describe all actions and policies of the People’s Republic of China which relate to improving the military capabilities of nations in the Middle East and South Asia, including a description of previous and potential future transfers of—

(1) M-series ballistic missile systems, and of technology and assistance related to the production of such missile systems;

(2) technologies capable of producing weapons-grade nuclear material; and

(3) technology and materials needed for the production or use of chemical and biological arms.

(c) **SPECIAL REPORT.**—At any time that the President determines that the People’s Republic of China is preparing to take, or has taken, any action described in subsection (b), he shall so report in writing to Congress.

SEC. 325. REPORT ON SS-23 MISSILES.

Pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before submitting to the Senate for its advice and consent to ratification a Strategic Arms Reduction Treaty, the President provide a classified report with an unclassified summary to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of the former East Ger-

⁸⁰Sec. 323 amended secs. 73 and 74 of the Arms Export Control Act (22 U.S.C. 2797b and 2797c).

⁸¹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

many, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed.

PART C—DECLARATIONS OF CONGRESS

SEC. 351. RECIPROCAL DIPLOMATIC STATUS WITH MEXICO.

It is the sense of Congress that—

(1) all United States law enforcement personnel serving in Mexico should be accredited in the same manner and accorded the same status as United States diplomatic and consular personnel serving as official representatives at United States posts in Mexico; and

(2) all Mexican narcotics law enforcement personnel serving in the United States should be accredited in the same manner and accorded the same diplomatic and consular status as United States Drug Enforcement Administration personnel serving in Mexico.

SEC. 352. UNITED STATES PRESENCE IN LITHUANIA, LATVIA, AND ESTONIA.

It is the sense of the Congress that in the aftermath of the reestablishment of full diplomatic relations between the United States and Lithuania, Latvia, and Estonia, the United States Government, including the Secretary of State, the Director of the United States Information Agency, and the Director of the Foreign Commercial Service, should provide in Lithuania, Latvia, and Estonia—

(1) an embassy and full complement of embassy staff and personnel;

(2) cultural and information officers for the purpose of expanding cultural contacts and promoting citizen, academic, professional, and other exchange programs between the United States and Lithuania, Latvia, and Estonia; and

(3) commercial representatives for the purpose of expanding commercial and trade relations between the United States and Lithuania, Latvia, and Estonia.

SEC. 353. LAOTIAN-AMERICAN RELATIONS.

It is the sense of the Congress that the President, in recognition of the constructive changes taking place in Laos, should—

(1) upgrade the current American diplomatic representation in Vientiane, Laos, from Charge d'Affaires to the level of Ambassador;

(2) ensure that an American military attache is permanently assigned to the United States mission in Vientiane to assist the recovery of American prisoners of war and missing in action; and

(3) ensure that Drug Enforcement Agency personnel are permanently assigned, when practicable, to the United States mission in Vientiane for the purpose of accelerating cooperative efforts in narcotics eradication and interdiction.

SEC. 354. POW/MIA STATUS.

It is the sense of the Congress that—

(1) the United States should continue to give the highest national priority to accounting as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to securing the return of any Americans who may still be held captive in Southeast Asia;

(2) the United States should ensure that there is a viable sustained process of joint cooperation with the Socialist Republic of Vietnam and the Lao People's Democratic Republic to achieve credible answers for the families of America's servicemen and civilians who are missing or otherwise unaccounted for, including primary-next-of-kin access to all records and information resulting from the process of joint investigations, surveys, and excavations;

(3) the United States should encourage and provide all necessary assistance to the families of POW/MIAs and to American veterans organizations, such as the American Legion, Veterans of Foreign Wars, and Vietnam Veterans of America in their efforts to account for POW/MIAs;

(4) General John Vessey should be highly commended for his personal commitment to resolving the POW/MIA issue;

(5) the United States should develop a means to obtain the fullest possible accounting for Americans who are listed as missing or otherwise unaccounted for in Cambodia, without placing this humanitarian objective into conflict with United States efforts to obtain an acceptable political settlement of the Cambodian situation; and

(6) the United States should heighten responsible public awareness of the Americans still missing or otherwise unaccounted for in Southeast Asia through the dissemination of factual data.

SEC. 355. CHINA'S ILLEGAL CONTROL OF TIBET.

It is the sense of the Congress that—

(1) Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Qinghai, is an occupied country under the established principles of international law;

(2) Tibet's true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people;

(3) Tibet has maintained throughout its history a distinctive and sovereign national, cultural, and religious identity separate from that of China and, except during periods of illegal Chinese occupation, has maintained a separate and sovereign political and territorial identity;

(4) historical evidence of this separate identity may be found in Chinese archival documents and traditional dynastic histories, in United States recognition of Tibetan neutrality during World War II, and in the fact that a number of countries including the United States, Mongolia, Bhutan, Sikkim, Nepal, India, Japan, Great Britain, and Russia recognized Tibet as an independent nation or dealt with Tibet independently of any Chinese government;

(5) in 1949-1950, China launched an armed invasion of Tibet in contravention of international law;

(6) it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another; and

(7) numerous United States declarations since the Chinese invasion have recognized Tibet's right to self-determination and the illegality of China's occupation of Tibet.

SEC. 356.⁸² RELEASE OF PRISONERS HELD IN IRAQ.

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

(1) in addition to other requirements of law, the President should not lift United States economic sanctions currently in place against the Iraqi government, and should continue to make every effort to ensure the multinational coalition maintains the full range of economic sanctions as embodied in the appropriate United Nations Security Council resolutions; and

(2) such sanctions should remain in effect until the Iraqi government has released all individuals held prisoner and has accounted as fully as possible for all those missing as a result of Iraq's invasion of Kuwait, including those Kuwaiti citizens and other Kuwaiti residents captured or detained by Iraq.

(b) REPORT TO CONGRESS.—The Secretary of State shall—

(1) continue to consult with the International Committee of the Red Cross (ICRC) on the status of a detailed list of all Kuwaiti citizens and other residents of Kuwait believed to have been captured or detained by the government of Iraq; and

(2) to the extent such information is available, submit a report on the steps which have been taken and planned actions to effect the release of remaining prisoners held by Iraq to the appropriate committees of the Congress not later than 180 days after the date of the enactment of this Act.

(c) DEFINITION.—For the purposes of this section the term “appropriate committees of the Congress” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁸¹ of the House of Representatives.

SEC. 357. POLICY TOWARD HONG KONG.

It is the sense of the Congress that the United States should encourage the Government of the United Kingdom to provide the people of Hong Kong all possible civil liberties, including popular election of the territory's Legislative Council, so that it will bequeath a fully functioning, self-governing democracy to China in 1997.

SEC. 358. POLICY TOWARD TAIWAN.

It is the sense of Congress that—

(1) Taiwan's economic dynamism is a tribute to the success of the postwar United States assistance program and to Taiwan's commitment to an international system of free trade;

⁸²Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(2) Taiwan's economic growth has made it in recent years an indispensable part of regional and international networks of trade, investment, and finance; and

(3) the United States should support Taiwan's interest in playing a role in international and regional economic organizations.

SEC. 359. HUMAN RIGHTS ABUSES IN EAST TIMOR.

(a) FINDINGS.—The Congress finds that—

(1) many tens of thousands out of a population of nearly 700,000 perished in the former Portuguese colony of East Timor between 1975 and 1980, as a result of war-related killings, famine, and disease following the invasion of that territory by Indonesia;

(2) Amnesty International and other international human rights organizations continue to report evidence in East Timor of human rights violations, including torture, arbitrary arrest, and repression of freedom of expression;

(3) serious medical, nutritional, and humanitarian problems persist in East Timor;

(4) a state of intermittent conflict continues to exist in East Timor; and

(5) the Governments of Portugal and Indonesia have conducted discussions since 1982 under the auspices of the United Nations to find an internationally acceptable solution to the East Timor conflict.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should urge the Government of Indonesia to take action to end all forms of human rights violations in East Timor and to permit full freedom of expression in East Timor;

(2) the President should encourage the Government of Indonesia to facilitate the work of international human rights organizations and other groups seeking to monitor human rights conditions in East Timor and to continue and expand cooperation with international humanitarian relief and development organizations seeking to work in East Timor; and

(3) the Administration should encourage the Secretary General of the United Nations and the governments of Indonesia, Portugal, and other involved parties, to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor.

SEC. 360. SUPPORT FOR NEW DEMOCRACIES.

It is the policy of the United States—

(1) to support democratization within the Soviet Union and support self-determination, observer and other appropriate status in international organizations, particularly the Conference on Security and Cooperation in Europe (CSCE) and independence for all republic-level governments which seek such status;

(2) to shape its foreign assistance and other programs to support those republics that pursue a democratic and market-oriented course of development, and demonstrate a commitment to abide by the rule of law;

(3) to strongly support peaceful resolution of conflicts within the Soviet Union and between the central Soviet government and Lithuania, Latvia, and Estonia and republic-level governments;

(4) to condemn the actual and threatened use of martial law, pogroms, military occupation, blockades, and other uses of force which have been used to suppress democracy and self-determination; and

(5) to view the threatened and actual use of force to suppress the self-determination of republic-level governments and Lithuania, Latvia, and Estonia as an obstacle to fully normalized United States-Soviet relations.

SEC. 361. POLICY REGARDING UNITED STATES ASSISTANCE TO THE SOVIET UNION AND YUGOSLAVIA.

(a) CONGRESSIONAL STATEMENT.—An essential purpose of United States foreign assistance is to foster the development of democratic institutions and free enterprise systems. Stable economic growth, fostered by free enterprise and free trade, is also important to the development of democratic institutions.

(b) DECLARATION OF UNITED STATES POLICY.—It is the policy of the United States, to the extent feasible and consistent with United States national interest, that—

(1) assistance to the Soviet Union and Yugoslavia, including their successor entities or any constituent part, shall be conditioned on significant steps toward political pluralism based on a democratic multi-party political system, economic reform based on a market-oriented economy, respect for internationally recognized human rights and a willingness to build a friendly relationship with the United States; and

(2) expanded trade with the republics in the Soviet Union and Yugoslavia or their successor entities should be encouraged.

SEC. 362.⁸³ * * * [Repealed—1993]

SEC. 363. UNITED STATES TACTICAL NUCLEAR WEAPONS DESIGNED FOR DEPLOYMENT IN EUROPE.

(a) FINDINGS.—The Congress finds that—

(1) the Warsaw Pact military alliance no longer exists;

(2) the Soviet Union's capability to pose a military threat to European security has retreated radically; and

(3) in light of the retreating Soviet threat, West European electorates are unlikely to approve the deployment of new United States tactical nuclear weapons on European soil.

(b) POLICY.—It is the sense of the Congress that the United States Government should not proceed with the research or development of any tactical nuclear system designed solely for deployment in Europe unless and until the Council of the North Atlantic Treaty Organization has officially announced how, when, and where such tactical nuclear systems will be deployed.

⁸³Sec. 362, relating to policy toward the release of political prisoners by South Africa, was repealed by sec. 4(b)(4) of the South African Democratic Transition Act of 1993 (Public Law 103-149; 107 Stat. 1505).

SEC. 364. UNITED STATES SUPPORT FOR UNCED.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations Conference on Environment and Development (hereinafter in this section referred to as “UNCED”) is scheduled to meet in June 1992 in Rio de Janeiro, Brazil; and

(2) UNCED affords a major opportunity to shape international environmental policy as an underpinning of sustainable development for well into the next century.

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

(1) the United States should seek to integrate environmental principles and considerations into all spheres of international economic activity;

(2) the President should accord the UNCED process high-level attention and priority within the executive branch;

(3) the United States should exercise a leadership role in preparations for the June 1992 meeting of the UNCED;

(4) the United States should carefully consider what it hopes to achieve through the UNCED and how United States national security interests may best be advanced in deliberations in that conference;

(5) the United States should seek ways to forge a global partnership and international cooperation among developing and industrialized nations on behalf of environmentally sound economic development;

(6) the United States should actively pursue creative approaches to the spectrum of UNCED issues which the conference will address, and in particular seek innovative solutions to the key cross-sectorial issues of technology transfer and financial resources;

(7) the United States should consider how best to strengthen international legal and institutional mechanisms to effectively address the range of UNCED issues beyond the 1992 Conference and into the next century;

(8) the United States should promote broad international participation in the UNCED process at all levels, from grass roots to national;

(9) the Agency for International Development should assume an appropriate role in the preparations for the June 1992 meeting of the UNCED, in view of the mandate and expertise of that agency regarding the twin conference themes of international environment and development; and

(10) the executive branch should consider funding for appropriate activities related to the UNCED in amounts which are commensurate with United States responsibilities in the world, as such funds can engender good will and further our national interests and objectives in the UNCED process.

TITLE IV—ARMS TRANSFERS RESTRAINT POLICY FOR THE MIDDLE EAST AND PERSIAN GULF REGION⁸⁴**SEC. 401. FINDINGS.**

The Congress finds that—

⁸⁴ 22 U.S.C. 2778 note.

(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are important to the welfare of the international economy and to the national security interests of the United States;

(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, greater multinational transparency on the transfer of defense articles and services prior to agreement or transfer, cooperative verification measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are important to implement an effective multilateral arms transfer and control regime;

(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the inter-

national exchange of information, on an annual basis, on the sale and transfer of major military equipment, particularly to the Middle East and Persian Gulf region; and

(12) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council, that—

(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

SEC. 402. MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.

(a) IMPLEMENTATION OF THE REGIME.—

(1) CONTINUING NEGOTIATIONS.—The President shall continue negotiations among the 5 permanent members of the United Nations Security Council and commit the United States to a multilateral arms transfer and control regime for the Middle East and Persian Gulf region.

(2) PROPOSING A TEMPORARY MORATORIUM DURING NEGOTIATIONS.—In the context of these negotiations, the President should propose to the 5 permanent members of the United Nations Security Council a temporary moratorium on the sale and transfer of major military equipment to nations in the Middle East and Persian Gulf region until such time as the 5 permanent members agree to a multilateral arms transfer and control regime.

(b) PURPOSE OF THE REGIME.—The purpose of the multilateral arms transfer and control regime should be—

(1) to slow and limit the proliferation of conventional weapons in the Middle East and Persian Gulf region with the aim of preventing destabilizing transfers by—

(A) controlling the transfer of conventional major military equipment;

(B) achieving transparency among arms suppliers nations through advanced notification of agreement to, or transfer of, conventional major military equipment; and

(C) developing and adopting common and comprehensive control guidelines on the sale and transfer of conventional major military equipment to the region;

(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons and the technologies necessary to produce or assemble such weapons;

(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

(5) to promote regional arms control in the Middle East and Persian Gulf region.

(c) ACHIEVING THE PURPOSES OF THE REGIME.—

(1) CONTROLLING PROLIFERATION OF CONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsection (b)(1), the United States should pursue the development of a multilateral arms transfer and control regime which includes—

(A) greater information-sharing practices among supplier nations regarding potential arms sales to all nations of the Middle East and Persian Gulf region;

(B) applying, for the control of conventional major military equipment, procedures already developed by the International Atomic Energy Agency, the Multilateral Coordinating Committee on Export Controls (COCOM), and the Missile Technology Control Regime (MTCR); and

(C) other strict controls on the proliferation of conventional major military equipment to the Middle East and Persian Gulf region.

(2) HALTING PROLIFERATION OF UNCONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsections (b) (2) and (3), the United States should build on existing and future agreements among supplier nations by pursuing the development of a multilateral arms transfer and control regime which includes—

(A) limitations and controls contained in the Enhanced Proliferation Control Initiative;

(B) limitations and controls contained in the Missile Technology Control Regime (MTCR);

(C) guidelines followed by the Australia Group on chemical and biological arms proliferation;

(D) guidelines adopted by the Nuclear Suppliers Group (the London Group); and

(E) other appropriate controls that serve to halt the flow of unconditional weapons to the Middle East and Persian Gulf region.

(3) PROMOTION OF REGIONAL ARMS CONTROL AGREEMENTS.—In order to achieve the purposes described in subsections (b) (4) and (5), the United States should pursue with nations in the Middle East and Persian Gulf region—

(A) the maintenance of the military balance within the region, while eliminating nuclear, biological, and chemical weapons and associated delivery systems, and ballistic missiles;

(B) the implementation of confidence-building and security-building measures, including advance notification of certain ground and aerial military exercises in the Middle East and the Persian Gulf; and

(C) other useful arms control measures.

(d) MAJOR MILITARY EQUIPMENT.—As used in this title, the term “major military equipment” means—

- (1) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;
- (2) turbine-powered military aircraft;
- (3) attack helicopters;
- (4) main battle tanks;
- (5) submarines and major naval surface combatants;
- (6) nuclear, biological, and chemical weapons; and
- (7) such other defense articles and defense services as the President may determine.

SEC. 403.⁸⁵ LIMITATION ON UNITED STATES ARMS SALES TO THE REGION.

Beginning 60 days after the date of enactment of the International Cooperation Act of 1991 or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, whichever is enacted first, no sale of any defense article or defense service may be made to any nation in the Middle East and Persian Gulf region, and no license may be issued for the export of any defense article or defense service to any nation in the Middle East and Persian Gulf region, unless the President—

- (1) certifies in writing to the relevant congressional committees that the President has undertaken good faith efforts to convene a conference for the establishment of an arms suppliers regime having elements described in section 402; and
- (2) submits to the relevant congressional committees a report setting forth a United States plan for leading the world community in establishing such a multilateral regime to restrict transfers of advanced conventional and unconventional arms to the Middle East and Persian Gulf region.

SEC. 404.⁸⁵ REPORTS TO THE CONGRESS.

(a) **QUARTERLY REPORTS.**—Beginning on January 15, 1992, and quarterly thereafter through October 15, 1993, the President shall submit to the relevant congressional committees a report—

- (1) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b); and
- (2) describing efforts by the United States and progress made to induce other countries to curtail significantly the volume of their arms sales to the Middle East and Persian Gulf region, and if such efforts were not made, the justification for not making such efforts.

(b) **INITIAL REPORT ON TRANSFERS AND REGIONAL MILITARY BALANCE.**—Not later than 60 days after the date of enactment of the International Cooperation Act of 1991 or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, whichever is enacted first, the President shall submit to the relevant congressional committee a report—

⁸⁵ Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

“**Sec. 3. Arms Control in the Middle East.** The certification and reporting functions vested in me by sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.”

An earlier memorandum of December 27, 1991 (57 F.R. 1069), made the same delegation.

(1) documenting all transfers of conventional and unconventional arms by any nation to the Middle East and Persian Gulf region over the previous calendar year and the previous 5 calendar years, including sources, types, and recipient nations of weapons;

(2) analyzing the current military balance in the region, including the effect on the balance of transfers documented under paragraph (1);

(3) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b);

(4) describing any agreements establishing such a regime; and

(5) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines such a regime.

(c) ANNUAL REPORTS ON TRANSFERS AND REGIONAL MILITARY BALANCE.—Beginning July 15, 1992, and every 12 months thereafter, the President shall submit to the relevant congressional committees a report—

(1) documenting all transfers of conventional and unconventional arms by any nation to the Middle East and Persian Gulf region over the previous calendar year, including sources, types, and recipient nations of weapons;

(2) analyzing the current military balance in the region, including the effect on the balance of transfer documented under paragraph (1);

(3) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b); and

(4) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines such a regime.

SEC. 405. RELEVANT CONGRESSIONAL COMMITTEES DEFINED.

As used in this title, the term “relevant congressional committees” means the Committee on Foreign Affairs⁸⁶ of the House of Representatives and the Committee on Foreign Relations of the Senate.

TITLE V—CHEMICAL AND BIOLOGICAL WEAPONS CONTROL * * * [Repealed—1991]⁸⁷

⁸⁶Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁸⁷Title V was repealed by sec. 309 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182; 105 Stat. 1258). See the freestanding provisions of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and sec. 11C of the Export Administration Act as enacted by sec. 305(a) of Public Law 102-182, in *Legislation on Foreign Relations Through 2000*, vol. III; and chapter 8 of the Arms Export Control Act, as enacted by sec. 305(b) of Public Law 102-182, in *Legislation on Foreign Relations Through 2001*, vol. I-A.

j. International Peacekeeping Act of 1992

Public Law 102-311 [H.R. 4548], 106 Stat. 277, approved July 2, 1992

AN ACT To authorize contributions to United Nations peacekeeping activities.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “International Peacekeeping Act of 1992”.

SEC. 2. UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) FISCAL YEAR 1992.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated \$350,000,000 for fiscal year 1992 for the Department of State for assessed and voluntary contributions of the United States to United Nations peacekeeping activities. Authorizations of appropriations under this subsection shall remain available until October 1, 1994.

(b) FISCAL YEAR 1993.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated \$366,069,000 for fiscal year 1993 for the Department of State for assessed contributions of the United States to United Nations peacekeeping activities.

(c) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated \$53,814,000 for fiscal year 1993 for “Contributions to International Organizations”.

**k. Foreign Relations Persian Gulf Conflict Emergency
Supplemental Authorization Act, Fiscal Year 1991**

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

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

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

SECTION 1. SHORT TITLE.

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

SEC. 2. SALARIES AND EXPENSES.

In addition to such amounts as are authorized to be appropriated in section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$10,000,000 as emergency supplemental appropriations for fiscal year 1991 for “Salaries and Expenses” for the Department of State. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 3. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

In addition to such amounts as are authorized to be appropriated in section 101(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$9,300,000 as emergency supplemental appropriations for fiscal year 1991 for “Emergencies in the Diplomatic and Consular Service” for the Department of State to be available only for costs associated with the evacuation of United States Government employees (including contractor employees) and their dependents and other United States citizens from diplomatic posts. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 4.¹ SPECIAL PURPOSE PASSENGER MOTOR VEHICLES. * * *

**SEC. 5. AGENCY FOR INTERNATIONAL DEVELOPMENT EMERGENCY
EVACUATION EXPENSES.**

There are authorized to be appropriated \$6,000,000 as emergency supplemental appropriations for fiscal year 1991 for the operating expenses of the Agency for International Development. Such funds shall be available only for the costs of evacuating United States

¹Sec. 4 amended sec. 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669).

Government employees and personal service contractors, and their dependents, and for subsistence allowance payments. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 6.² BURDENSARING.

The Congress—

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

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

²See also legislation relating to U.S. policy toward Iraq, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

1. Foreign Relations Authorization Act, Fiscal Years 1990 and 1991

Partial text of Public Law 101-246 [H.R. 3792], 104 Stat. 15, approved February 16, 1990; amended by Public Law 101-302 [Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102-549 [Jobs Through Exports Act of 1992, H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-107 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], 110 Stat. 704, approved February 12, 1996; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

SECTION 1.¹ SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1990 and 1991”.

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

¹ 22 U.S.C. 2651 note.

TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) **DIPLOMATIC AND ONGOING OPERATIONS.**—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law (other than the diplomatic security program):

(1)² **SALARIES AND EXPENSES.**—For “Salaries and Expenses”, of the Department of State \$1,432,124,000 for the fiscal year 1990 and \$1,583,598,000 for the fiscal year 1991,³ of which not less than \$250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2)⁴ **ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.**—For “Acquisition and Maintenance of Buildings Abroad”, \$218,900,000 for the fiscal year 1990 and \$227,656,000 for the fiscal year 1991.

(3)⁵ **REPRESENTATION ALLOWANCES.**—For “Representation Allowances”, \$4,600,000 for the fiscal year 1990 and \$5,000,000 for the fiscal year 1991.

(4)⁶ **EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**—For “Emergencies in the Diplomatic and Consular Service”

²The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1006), provided \$1,741,239,000 for “Salaries and Expenses”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2124), provided \$1,860,017,000.

Sec. 2 of the Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 (Public Law 102-20; 105 Stat. 68), authorized an additional “\$10,000,000 as emergency supplemental appropriations for fiscal year 1991 for ‘Salaries and Expenses’ for the Department of State.”

³Sec. 1102 of this Act waived the text of sec. 101(a) that follows “1991” for fiscal years 1990 and 1991, effective on the date of enactment of this Act (February 16, 1990).

⁴The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$348,100,000 for “Acquisitions and Maintenance of Buildings Abroad”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$227,656,000.

⁵The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$4,600,000 for “Representation Allowances”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$4,600,000.

⁶The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$4,700,000 for “Emergencies in the Diplomatic and Consular Service”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$4,888,000.

Sec. 3 of the Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 (Public Law 102-20; 105 Stat. 68) authorized the following:

“SEC. 3. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

“In addition to such amounts as are authorized to be appropriated in section 101(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$9,300,000 as emergency supplemental appropriations for fiscal year 1991 for ‘Emergencies in the Diplomatic and Consular Service’ for the Department of State to be available only for costs associated with the evacuation of United States Government employees (including contractor employees) and their dependents and other United States citizens from diplomatic posts. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.”

ice”, \$4,700,000 for the fiscal year 1990 and \$4,888,000 for the fiscal year 1991.

(5)⁷ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$21,000,000 for the fiscal year 1990 and \$21,840,000 for the fiscal year 1991.

(6)⁸ PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$11,300,000 for the fiscal year 1990 and \$11,752,000 for the fiscal year 1991.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the fiscal years 1990 and 1991 for the Department of State to carry out the diplomatic security program:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$309,365,000 for the fiscal year 1990 and \$361,995,000 for the fiscal year 1991.

(2)⁹ PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$9,100,000 for the fiscal year 1990 and \$9,464,000 for the fiscal year 1991.

(c)¹⁰ ALLOCATION FOR OFFICE OF MUNITIONS CONTROL.—Of the amounts authorized to be appropriated by this section, there shall be available only for the Office of Munitions Control of the Department of State for each of the fiscal years 1990 and 1991 such amount as is necessary to maintain at least 53 full-time equivalent personnel and any associated costs.

SEC. 102. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1)¹¹ There are authorized to be appropriated for “Contributions to International Organizations”, \$714,927,000 for the fiscal year 1990 and \$817,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and for other purposes authorized by law.

⁷The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$21,000,000 for “Office of Inspector General”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$21,840,000.

⁸The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$11,300,000 for “Payment to the American Institute in Taiwan”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$11,752,000.

⁹The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$9,100,000 for “Protection of Foreign Missions and Officials”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$9,100,000.

¹⁰Sec. 1102 of this Act waived sec. 101(c) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

¹¹The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$622,000,000 for “Contributions to International Organizations”, and also provided “That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$787,605,000, with the same proviso.

(2)¹² Of the amounts authorized to be appropriated by paragraph (1), \$1,249,000 for the fiscal year 1990 shall be available only for the South Pacific Commission.

(b)¹³ CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated for “Contributions to International Peacekeeping Activities”, \$111,184,000 for the fiscal year 1990 and \$115,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and for other purposes authorized by law.

(c)¹⁴ INTERNATIONAL CONFERENCES AND CONTINGENCIES.—(1) There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,340,000 for the fiscal year 1990 and \$7,300,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and for other purposes authorized by law.

(2) None of the funds authorized to be appropriated under paragraph (1), may be obligated or expended for any United States delegation to any meeting of the Conference on Security and Cooperation in Europe (CSCE) or meetings within the framework of the CSCE unless the United States delegation to any such meeting includes individuals representing the Commission on Security and Cooperation in Europe.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)¹⁵ for “Salaries and Expenses” for the fiscal year 1990, \$10,460,000 and, for the fiscal year 1991, \$10,878,000; and

(B)¹⁶ for “Construction” for the fiscal year 1990, \$11,500,000 and, for the fiscal year 1991, \$11,900,000.

¹²Sec. 1102 of this Act waived sec. 102(a)(2) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

¹³The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$81,500,000 for “Contributions for International Peacekeeping Activities”, including arrearages incurred through fiscal year 1989.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$115,000,000.

¹⁴The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$6,340,000 for “International Conferences and Contingencies”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$7,300,000.

¹⁵The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$10,460,000 for “Salaries and Expenses”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$10,500,000.

¹⁶The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$11,500,000 for “Construction”.

(2)¹⁷ INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$750,000 for the fiscal year 1990 and \$780,000 for the fiscal year 1991.

(3)¹⁷ INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,750,000 for the fiscal year 1990 and \$3,900,000 for the fiscal year 1991.

(4)¹⁸ INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$11,000,000 for the fiscal year 1990 and \$11,440,000 for the fiscal year 1991.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance”—

(1)¹⁹ for authorized activities, \$415,000,000 for the fiscal year 1990 and \$445,000,000 for the fiscal year 1991; and

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$10,000,000.

¹⁷The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided the following for “American Sections, International Commissions”:

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided:

“For necessary expenses, not otherwise provided for including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,400,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

¹⁸The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$12,300,000 for “International Fisheries Commissions”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$12,147,000.

¹⁹Sec. 2 of the Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 (Public Law 102-45; 105 Stat. 247), authorized supplemental appropriations for fiscal year 1991, as follows:

“SEC. 2. EMERGENCY ASSISTANCE FOR REFUGEES.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and to reimburse appropriations accounts from which such assistance was provided before the date of the enactment of this Act—

“(1) up to \$150,000,000 for ‘International Disaster Assistance’ under chapter 9 of part I of the Foreign Assistance Act of 1961; and

“(2) up to \$200,000,000 for ‘Migration and Refugee Assistance’ for the Department of State.

“(b) EMERGENCY MIGRATION AND REFUGEE ASSISTANCE.—For purposes of section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, the limitation on appropriations for the ‘United States Emergency Refugee and Migration Assistance Fund’ for fiscal year 1991 shall be deemed to be \$75,000,000.”

Further, chapter II of the Dire Emergency Supplemental Appropriations (Public Law 102-55; 105 Stat. 292) provided the following:

“MIGRATION AND REFUGEE ASSISTANCE

“(TRANSFER OF FUNDS)

“For an additional amount for ‘Migration and Refugee Assistance’, \$75,000,000: *Provided*, That in addition to amounts otherwise available for such purposes, up to \$250,000 of the funds appropriated under this heading may be made available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“(TRANSFER OF FUNDS)

“For an additional amount for the ‘United States Emergency Refugee and Migration Assistance Fund’, \$68,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in sec-

Continued

(2)²⁰ for each of the fiscal years 1990 and 1991 for assistance for refugees resettling in Israel, \$25,000,000.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) or (2) of subsection (a) are authorized to remain available until expended.

SEC. 105.²¹ OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1)²² UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Tech-

tion 2(c)(2) of the Migration and Refugee Assistance Act of 1962 that would limit the amount of funds that could be appropriated for this purpose.”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1995), provided \$485,648,000 for “Migration and Refugee Assistance”, earmarked for several specific programs.

Public Law 101-513 (104 Stat. 1996) also provided \$35,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Dire Emergency Supplemental Appropriations Act of 1990 (Public Law 101-302; 104 Stat. 222) provided \$75,000,000 for “Migration and Refugee Assistance”, earmarked for several specific programs; and \$25,000,000 for “United States Emergency Refugee and Migration Assistance Fund”.

Title III of the Continuing Appropriations and Supplemental Appropriations Act (Public Law 101-403; 104 Stat. 874) provided \$10,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1210), provided \$370,000,000 for “Migration and Refugee Assistance”, earmarked for several specific programs.

Public Law 101-167 also provided \$50,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 101) provided the following:

“MIGRATION AND REFUGEE ASSISTANCE

“For an additional amount for ‘Migration and refugee assistance’, \$100,000,000, to support emergency refugee admissions and assistance: *Provided*, That this amount may be derived through new budget authority, or the President may transfer to such account for purposes of this paragraph any unobligated and unearmarked funds made available under Public Law 100-461, notwithstanding section 514 as amended by section 589 of Public Law 100-461: *Provided further*, That if the President transfers funds for this paragraph not more than 3.3 per centum of the unobligated and unearmarked funds available under any account in Public Law 100-461 may be transferred: *Provided further*, That any transfer of funds pursuant to this paragraph shall be subject to the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That not less than \$85,000,000 of such amount shall be made available for Soviet and other Eastern European Refugee admissions and for admissions restored to other regions: *Provided further*, That funds provided under this paragraph are available until expended.”.

²⁰The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1210), provided that, of the \$370,000,000 appropriated for Migration and Refugee Assistance, “not less than \$25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1995), earmarked \$45,000,000 for Soviet, Eastern European and other refugees resettling in Israel.

The Dire Emergency Supplemental Appropriations Act of 1990 (Public Law 101-302; 104 Stat. 222) earmarked \$5,000,000.

²¹The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,900,000; and for the “Fishermen’s Guaranty Fund”: \$900,000.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,978,000; for the “Fishermen’s Guaranty Fund”: \$900,000; and for the “Fishermen’s Protective Fund”: \$500,000.

²²The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$4,000,000 for “United States Bilateral Science and Technology Agreements”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$4,500,000.

nology Agreements”, \$4,000,000 for the fiscal year 1990 and \$4,160,000 for the fiscal year 1991.

(2)²³ SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,600,000 for the fiscal year 1990 and \$5,200,000 for the fiscal year 1991.

SEC. 106.²⁴ * * *

SEC. 107.²⁵ * * *

SEC. 108.²⁶ * * *

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

* * * * *

SEC. 115. ENHANCEMENT OF EVACUATION CAPABILITY AND PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.

* * * * *

(d)²⁷ DEVELOPMENT OF STANDARDIZED PROCEDURES.—

(1) The Secretary of State shall enter into discussions with international air carriers and other appropriate entities to develop standardized procedures which will assist the Secretary in implementing the provisions of section 43 of the State Department Basic Authorities Act of 1956, as amended by subsection (c).

(2) The Secretary of State shall consider the feasibility of establishing a toll-free telephone number to facilitate inquiries by the next-of-kin in cases of major disasters or incidents abroad which affect the health and safety of citizens of the United States residing or traveling abroad.

(e) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which sets forth plans for the implementation of the amendment made by subsection (c) and the provisions of subsection (d)(1), together with the Secretary’s comments concerning the proposal under subsection (d)(2).

* * * * *

SEC. 124. OPENING A UNITED STATES CONSULATE IN BRATISLAVA.

(a) FINDINGS.—The Congress finds that—

(1) the State Department’s “special consulate” concept offers a model for reopening a consulate in Bratislava, Czecho-

²³The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$4,600,000 for “Soviet-East European Research and Training”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$4,600,000.

²⁴Sec. 106 added a new sec. 11 to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678), relating to a reduction in earmarks if appropriations are less than authorizations.

²⁵Sec. 107 amended sec. 24 of the State Department Basic Authorities Act of 1956.

²⁶Sec. 108 amended sec. 1302(b) of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151), to prohibit use of funds “for the conduct of current dialogue on the Middle East peace process with any representative of the Palestine Liberation Organization, if the President knows and advises the Congress that that representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen.” For text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

²⁷22 U.S.C. 2715 note.

slovakia, at modest cost and with significant public diplomacy and political benefits;

(2) the United States still owns the old consulate building and in 1987-1988 spent about \$500,000 to renovate parts of the building;

(3) the building has been productively used for trade and cultural events, but could be more effectively used by restoring it to its original purpose as the locus of official United States representation in the Slovak capital;

(4) Slovakia has been the source of the largest and most recent wave of Czechoslovak emigration to the United States and approximately three and one-half million Americans are of Slovak heritage;

(5) American tourists in Slovakia, many visiting relatives, often require consular assistance and this consular support could best be provided by a consulate in Bratislava;

(6) Slovaks account for more than half of all Czechoslovak tourist travel to the United States and this travel, which should be encouraged, could be expedited by a United States consulate in Bratislava;

(7) the Slovak underground Catholic Church is one of the most vibrant religious forces in Czechoslovakia and each year tens of thousands of Catholics make pilgrimages to Slovakia;

(8) American outreach efforts in Slovakia have been hindered by the absence of a constant and direct American presence in Bratislava; and

(9) with its Hungarian, Polish, and Ukrainian minorities, a United States consulate in Bratislava would provide important information on both regional and local developments.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should take all practicable steps to reopen the United States consulate in Bratislava, Czechoslovakia.

SEC. 125.²⁸ CONSTRUCTION OF UNITED STATES EMBASSY IN OTTAWA.

Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada.

SEC. 126. VOLUNTARY PILOT PROGRAM FOR INCREASED PARTICIPATION BY ECONOMICALLY AND SOCIALLY DISADVANTAGED ENTERPRISES IN FOREIGN RELATIONS ACTIVITIES.

(a) ESTABLISHMENT OF PILOT PROGRAM FOR VOLUNTARY SET-ASIDES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall prepare and transmit a detailed plan for the establishment for the fiscal years 1990 and 1991 of a pilot program of voluntary set-asides for increased participation, to the extent practicable, by economically and socially disadvantaged enterprises in programs and activities of the Department of State and the United States Information Agency to the

²⁸ 22 U.S.C. 4852 note.

Committee on Foreign Affairs²⁹ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) CONTENTS OF PLAN.—Such plan shall include—

(1) a description of where such pilot program will be located in each such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the pilot program to enable it to increase, to the extent practicable and in a rational and effective manner, participation of economically and socially disadvantaged enterprises in activities funded by such agencies;

(3) a detailed design for a time-phase system for bringing about expanded participation, to the extent practicable, by economically and socially disadvantaged enterprises, including—

(A) specific recommendations for percentage allocations of contracts, subcontracts, procurement, grants, and research and development activities by such agencies to such enterprises; and

(B) particular consideration of the participation of economically and socially disadvantaged enterprises in activities in the areas of communications, telecommunications, and information systems;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of economically and socially disadvantaged enterprises in comparison to the total activities funded by such agencies;

(5) a detailed projection of the administrative budgetary impact of the establishment of the pilot program; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of economically and socially disadvantaged enterprises to receive contracts funded by such agencies.

(c) OBJECTIVES.—The objective of the pilot program shall be to increase the participation, to the extent practicable, of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agencies.

(d) RESPONSIBILITIES.—The pilot program shall—

(1) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities funded by the agencies;

(2) design and conduct projects to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, subcontracts, grants, and research and development contracts in order for such enterprises to participate in programs funded by the Department of State and the United States Information Agency;

²⁹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities funded by such agencies;

(4) develop support mechanisms which will enable socially and economically disadvantaged enterprises to take advantage of business opportunities in programs funded by such agencies; and

(5) enter into such contracts (to such extent or in such amounts as are provided in advance in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

(e) **RESPONSIBILITIES OF THE SECRETARY.**—The Secretary of State (after consultation with the Director of the United States Information Agency) shall provide the pilot program with such relevant information, including procurement schedules, bids, and specifications with respect to programs funded by the Department of State and the United States Information Agency, as may be requested by the pilot program in connection with the performance of its functions under this section.

(f) **DEFINITIONS.**—

(1) For the purposes of this section, the term “economically and socially disadvantaged enterprise” means a business—

(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(B) whose management and daily business operations are controlled by one or more such individuals.

(2) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(3) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(g) **REPORTS TO CONGRESS.**—For each of the fiscal years 1990 and 1991, the Secretary of State shall prepare and submit a report concerning the implementation of the pilot program under this section to the Committee on Foreign Affairs²⁹ of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 127. REPORT ON REORGANIZATION OF THE DEPARTMENT OF STATE.

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

(1) The Department of State is currently reviewing its organizational structure.

(2) Each of the geographical bureaus deals with a large number of countries and often a broad diversity of cultures, nationalities, and ethnic divisions.

(3) The territory covered by the Bureau of Near Eastern and South Asian Affairs, for example, stretches from the Atlantic coast of Morocco to the Bay of Bengal, includes twenty-five countries, more than a billion people, a number of regional disputes, and several cultural and linguistic divisions. The Bureau of Inter-American Affairs has within its jurisdiction thirty-three countries, including Mexico, the nations of the Caribbean Basin, and Central and South America.

(4) Among the most pressing international issues is the prospect for global warming. Over the next few years, American leadership at the international level will be crucial to worldwide efforts to ensure that global warming does not occur. The Department of State will need to consider appropriate steps to prepare for the leadership role of the United States.

(5) The United States continues to face a foreign intelligence threat, including the danger to United States diplomatic missions. The Department of State will need to improve its ability to detect and prevent intelligence penetration of United States missions abroad.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act³⁰ the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²⁹ of the House of Representatives a report assessing the advisability of reorganization of its regional and functional bureaus. The report shall include, but not be limited to, an assessment of the advisability of two bureaus to cover the present responsibilities of the Bureau of Inter-American Affairs, an Office of Diplomatic Security to be headed by an Under Secretary-level Director of Diplomatic Security, and an Office of Global Warming within the Bureau of Oceans, International Environmental and Scientific Affairs. The report shall also include an assessment of the advisability of transferring the jurisdictional responsibility for the Organization of American States from the Bureau of International Organizations to the Bureau of Inter-American Affairs, and of creating a high-level coordinator for United States policy toward Mexico. In the context of the report required by this subsection, it is the sense of the Congress that the Secretary of State should give serious consideration to the establishment of a Bureau of South Asian Affairs within the Department of State.

* * * * *

PART C—DIPLOMATIC IMMUNITY, RECIPROCITY, AND SECURITY

SEC. 131. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN SERIOUS CRIMINAL OFFENSES COMMITTED IN THE UNITED STATES.

* * * * *

³⁰Sec. 320(b)(1) of Public Law 101-302 (104 Stat. 247) struck out “February 3, 1990” and inserted in lieu thereof “120 days after the date of enactment of this Act”.

(d) REPORT CONCERNING COMPENSATION AND DIPLOMATIC IMMUNITY.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the appropriate committees of the Congress a report which considers the need and feasibility of establishing a program which makes compensation awards to United States citizens and permanent resident aliens in the United States for physical injury or financial loss which is the result of criminal activity reasonably believed to have been committed by individuals with immunity from criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements, or otherwise under international law.

(2) Together with such other information as the Secretary of State considers appropriate, the report shall include—

(A) a plan and feasibility analysis for the establishment of such a program, including—

(i) specific recommendations for funding, administration, and procedures and standards for compensation and payment of awards; and

(ii) particular consideration of the feasibility of an appeals mechanism;

(B) an assessment of—

(i) the feasibility of establishing a fund;

(ii) the availability of existing accounts; or

(iii) other sources of funding for the program; and

(C) consideration of other possible mechanisms for compensation or reimbursement, including direct compensation by the individual with immunity from criminal jurisdiction or by the sending country of that individual.

* * * * *

SEC. 134.³¹ * * * [Repealed—1993]

* * * * *

SEC. 136.³² **INCREASED PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD UNDER THE DIPLOMATIC SECURITY PROGRAM.**

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

(1) State Department policy concerning the advertising of security contracts at Foreign Service buildings has been inconsistent over the years. In many cases, diplomatic and consular posts abroad have been given the responsibility to determine the manner in which the private sector was notified concerning an invitation for bids or a request for proposals with respect to a local guard contract. Some United States foreign missions have only chosen to advertise locally the availability of a local security guard contract abroad.

(2) As a result, many United States security firms that provide local guard services abroad have been unaware that local guard contracts were available for bidding abroad and such firms have been disadvantaged as a result.

³¹ Sec. 502(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed sec. 134, relating to U.S.-Soviet reciprocity in embassy matters.

³² 22 U.S.C. 4864.

(3) Undoubtedly, United States security firms would be interested in bidding on more local guard contracts abroad if such firms knew of the opportunity to bid on such contracts.

(b) OBJECTIVE.—It is the objective of this section to improve the efficiency of the local guard programs abroad administered by the Bureau of Diplomatic Security of the Department of State and to ensure maximum competition for local guard contracts abroad concerning Foreign Service buildings.

(c) PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD.—With respect to local guard contracts for a Foreign Service building which exceed \$250,000 and are entered into after the date of enactment of this Act, the Secretary of State shall—

(1) establish procedures to ensure that all solicitations for such contracts are adequately advertised in the Commerce and Business Daily;

(2)³³ absent compelling reasons, award such contracts through the competitive process;

(3)³⁴ in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;

(4)³³ in countries where contract denomination and/or payment in local currencies constitutes a barrier to competition by United States firms—

(A) allow solicitations to be bid in United States dollars; and

(B) allow contracts awarded to United States firms to be paid in United States dollars;

(5)³³ ensure that United States diplomatic and consular posts assist United States firms in obtaining local licenses and permits; and³⁵

(6)³⁶ establish procedures to ensure that appropriate measures are taken by diplomatic and consular post management to assure that United States persons and qualified United States

³³Sec. 141(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), inserted new paras. (2) through (5).

³⁴Originally added by sec. 141(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401); amended and restated by sec. 2210(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-811). Formerly read as follows:

“(3) in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;”

³⁵Sec. 2210(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-811), inserted “and” at the end of para. (5). Sec. 2210(3) of that Act struck out “; and” at the end of para. (6); and sec. 2210(4) of that Act struck out para. (7), which had read as follows:

“(7) give preference to United States persons and qualified United States joint venture persons where such persons are price competitive to the non-United States persons bidding on the contract, are properly licensed by the host government, and are otherwise qualified to carry out all the terms of the contract.”

³⁶Sec. 141(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), redesignated paras. (2) and (3) as (6) and (7), respectively. Para. (7) was subsequently struck out by sec. 2210(4) of Public Law 105-277 (112 Stat. 2681-811).

joint venture persons are not disadvantaged during the solicitation and bid evaluation process.^{35, 37}

(d) DEFINITIONS.—For the purposes of this section—

(1) the term “United States person” means a person which—

(A) is incorporated or legally organized under the laws of the United States, including the laws of any State, locality, or the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to the contract under subsection (c);

(D) has performed within the United States or³⁸ overseas security services similar in complexity to the contract being bid;

(E) with respect to the contract under subsection (c), has achieved a total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States; and

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(G) has the existing technical and financial resources in the United States to perform the contract;

(2) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture;³⁹

(3) the term “Foreign Service building” means any building or grounds of the United States which is in a foreign country and is under the jurisdiction and control of the Secretary of State, including residences of United States personnel assigned overseas under the authority of the Ambassador; and³⁹

(4)⁴⁰ the term “barrier to local competition” means—

(A) conditions of extreme currency volatility;

(B) restrictions on repatriation of profits;

(C) multiple exchange rates which significantly disadvantage United States firms;

(D) government restrictions inhibiting the free convertibility of foreign exchange; or

(E) conditions of extreme local political instability.

³⁷ Sec. 141(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “due to their distance from the post” before the punctuation.

³⁸ Sec. 141(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “and” and inserted in lieu thereof “or”.

³⁹ Sec. 141(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “and” at the end of para. (2); sec. 141(2)(D) of that Act struck out the period at the end of para. (3) and inserted instead “; and”.

⁴⁰ Sec. 141(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), added a new para. (4).

(e) UNITED STATES MINORITY CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States minority small business contractors.

(f) UNITED STATES SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States small business contractors.

(g) LIMITATION OF SUBCONTRACTING.—With respect to local guard contracts subject to subsection (c), a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

PART D—PERSONNEL

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SEC. 149. FOREIGN SERVICE INTERNSHIP PROGRAM.

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

(1) On September 3, 1986, George Shultz, as Secretary of State, issued a statement containing 32 directives concerning equal opportunity in the Foreign Service. In his statement Secretary Shultz affirmed that it was of “fundamental importance that the Foreign Service truly represent the cultural and ethnic diversity of our own society”, and indicated that the lack of such balanced representation was “a foreign policy problem which affects our image as a nation and as a leader of the free world”. Secretary Shultz stated “that representation of women and minorities in the Foreign Service is still unacceptably low” and declared that he was “particularly concerned at the small number of Blacks in the Senior Foreign Service”.

(2) The Secretary approved 32 recommendations included with the statement regarding recruitment, assignments, performance evaluations, and equal employment opportunity procedures within the Foreign Service. The recommendations of Secretary of State Shultz included—

(A) the targeting of historically Black American colleges and universities for special recruitment efforts, including specific information on how to apply for the Foreign Service examination, the testing process, and the mechanics of entry;

(B) independent review of the written exam for any cultural bias against African Americans;

(C) the inclusion of more African Americans on the board of examiners panels;

(D) investigation of methods to increase African American enrollment in university courses which might improve an applicant’s chances of passing the written exam;

(E) development of new recruitment strategies;

(F) the assignment of more African American officers to senior (and visible) role model positions; and

(G) the recruitment of more African American officers into the political and economic cones of the Foreign Service.

(3) During the past 7 years, equal opportunity programs to attract women and minorities to the Foreign Service have been most successful in recruiting women and Asian Americans. Such programs have been less than successful in the recruitment of African Americans, Hispanic Americans, and Native Americans. In 1982, 188 new recruits were appointed to the Foreign Service, 48 were minority appointments constituting 26 percent. In 1985 the number of new appointments had increased 33 percent to 281, but minorities comprised only 10.3 percent of such appointments, a total of 29.

(4) For African Americans and Hispanics the trend of hiring in the Foreign Service is disconcerting. Nineteen African Americans were appointed to the Foreign Service in 1983, in 1987 only 10 African Americans were appointed. Hispanic appointments ranged from 12 in 1983 to 8 in 1985 to 15 in 1987. For Native Americans the Foreign Service statistics are ominous, 5 appointments in 1983, 1 in 1984, and no appointments in 1985, 1986, or 1987.

(5) The severe underrepresentation in the Foreign Service of individuals from certain cultural and ethnic groups is in large part due to the small pool of applicants from such groups. In each year from 1982 through 1987, minority applicants represented 14 to 17 percent of the total applicants and only 50 percent of such applicants took the written exam. In 1987, 1,769 minority applicants took the written exam, 191 passed, and 36 were actually appointed to the Foreign Service.

(6) The absolute and relative decline in the appointment to the Foreign Service of certain minorities who reflect the cultural and ethnic diversity of the United States dictates that more aggressive equal opportunity programs be established to facilitate the recruitment and appointment of such individuals.

(b)⁴¹ ESTABLISHMENT.— * * *

(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of the Foreign Service Internship Program.

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SEC. 151.⁴² DANGER PAY ALLOWANCE.

The Secretary of State may not deny a request by the Drug Enforcement Administration to authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency.

⁴¹Subsec. (b) amended title I of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 4141) by adding at the end a new chapter 112, "Foreign Service Internship Program," secs. 1201-1204. Sec. 1102 of this Act waived sec. 149(b) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

⁴²5 U.S.C. 5928 note.

SEC. 152.⁴³ JUDICIAL REVIEW OF CERTAIN FOREIGN SERVICE GRIEVANCES.

For the purposes of judicial review under section 1110 of the Foreign Service Act of 1980, any recommendation made by the Foreign Service Grievance Board with respect to the tenure of a grievant which was reviewed by the Secretary of State before the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, shall be considered to be a final action of the Department of State, and any such recommendation shall be considered to have been made within the authority of the Foreign Service Grievance Board.

SEC. 153. BROADENING THE CULTURAL, GEOGRAPHIC, AND ETHNIC REPRESENTATION OF THE FOREIGN SERVICE AND THE DEPARTMENT OF STATE.

(a)⁴⁴ FINDINGS.—The Congress finds that a primary role of the Department of State is to represent the interests of the American people in foreign affairs and, as such, should strive to represent and include, among its policy and professional employees, the great diversity of the American people.

(b)⁴⁴ RECRUITMENT.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall provide the Congress with a plan to assure that equal efforts are undertaken in each of the regions of the United States to recruit policy and professional Government Service employees and Foreign Service officers for the Department of State and each of its affiliated agencies.

(2) Not later than January 1, 1991,⁴⁵ the Secretary of State shall implement the plan provided for in paragraph (1).

(c) REPORT BY THE INSPECTOR GENERAL.—Not later than 120 days after the date of enactment of this Act, the Office of Inspector General of the Department of State shall submit to the Congress a report documenting, with respect to geographic distribution, race, ethnicity, gender and handicapping conditions, the composition of the workforce of the policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies. The report shall include—

(1) a breakdown of current policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies by age, race, gender, undergraduate institution, graduate institution, and place of birth;

(2) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of birth of those persons who during 1988 passed the written portion of the Foreign Service examination but failed the interview portion; and

(3) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of birth of those persons who during 1989 passed the Foreign Service examination.

⁴³ 22 U.S.C. 4140 note.

⁴⁴ 22 U.S.C. 2656 note.

⁴⁵ Sec. 320(b)(2) of Public Law 101-302 (104 Stat. 247) struck out "January 1, 1990" and inserted in lieu thereof "January 1, 1991".

(d) PROHIBITION ON DISCRIMINATION BASED ON GEOGRAPHIC OR EDUCATIONAL AFFILIATION.—Section 105(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3905(b)(1)) is amended by inserting “geographic or educational affiliation within the United States,” after “marital status,”.

(e) TASK FORCE AND REPORT ON HISPANIC RECRUITMENT.—The Secretary of State shall appoint a task force comprised of high-ranking officials to conduct a study and make recommendations concerning improvements in the recruitment and promotion of Hispanic Americans at the Department of State and within the Foreign Service. Not later than one year after the date of the enactment of this Act, the task force shall submit a report of the findings of such study to the Secretary of State and the appropriate committees of the Congress.

(f) REPORT TO CONGRESS ON STATUS OF UNDERREPRESENTED GROUPS AT THE DEPARTMENT OF STATE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning efforts of the Department of State to improve the percentage of individuals who are at the assistant secretary and head of bureau level at the Department of State from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service.

(g)⁴⁶ STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination. Such review and evaluation shall—

- (1) identify any cultural, racial, ethnic, and sexual bias;
- (2) evaluate the ability of the examination to measure an individual's aptitude for and potential in the Foreign Service;
- (3) consider the relevance of the Foreign Service examination to the work of a Foreign Service officer;
- (4) make recommendations for the removal of any element of bias in the examination; and
- (5) make recommendations for improvements to achieve an examination free of any bias.

Not more than 18 months after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which contains the findings of such review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review. Such report shall take into consideration the current efforts by the Department of State to review its Foreign Service examination.

(h)⁴⁷ FOREIGN SERVICE FELLOWSHIPS.—The Secretary of State is authorized to establish a Foreign Service fellowship program at the Department of State. The Foreign Service fellowship program shall provide a fellowship, for not less than 4 months, for academics in the area of international affairs who are members of the faculty of institutions of higher education. Such program shall give priority consideration in the award of fellowships to individuals teaching in

⁴⁶ 22 U.S.C. 3941 note.

⁴⁷ 22 U.S.C. 2665a.

programs in international affairs which serve significant numbers of students who are from cultural and ethnic groups which are underrepresented in the Foreign Service.

SEC. 154. REPORT TO CONGRESS CONCERNING POLYGRAPH PROGRAM.

(a) **REPORT TO CONGRESS.**—Not later than January 31, of each of the years 1990 and 1991, the Secretary of State shall prepare and submit an annual report on the polygraph program of the Department of State to the Committee on Foreign Affairs⁴⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) **CONTENTS OF REPORT.**—The report shall provide an assessment of the implementation of the polygraph program during the preceding fiscal year. Together with such other information and comments as the Secretary considers appropriate, the report shall include the following:

(1) Data on the number of lie-detector tests administered.

(2) A description of the purposes and results of such tests.

(3) A description of the criteria used in the selection of programs and individuals for administration of lie-detector tests.

(4) The number of individuals who refused to submit to the administration of such tests.

(5) The number of lie detector tests administered in which a specific incident was not under investigation.

(6) A description of the actions taken when an individual fails or refuses the administration of such tests, including the denial of clearance or any other adverse action.

(7) A detailed accounting of cases in which more than two administrations of such tests were necessary to resolve discrepancies.

(8) Any proposed changes in regulations for the Department of State polygraph program.

(c) **DEFINITION.**—For purposes of this section, the term “lie detector” shall have the meaning given such term under section 2 of the Employee Polygraph Protection Act of 1988.

SEC. 155.⁴⁹ STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.

(a) **FINDINGS.**—The June 1988 report of the United States Merit Systems Protection Board entitled “Sexual Harassment in the Federal Government: An Update” determined that the Department of State (including the United States Information Agency) had the

⁴⁸Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁴⁹Sec. 194 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 683), provided the following:

“SEC. 194. STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.

“(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Department of State has been negligent in carrying out section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, ‘Study of Sexual Harassment at the Department of State’.

“(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of State shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the reasons for the Department’s negligence in adhering to deadlines required by law in implementing section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and what steps, if any, the Department has taken to prevent such a failure from recurring.”.

highest rate of incidence of sexual harassment of women of any agency of the Federal Government.

(b) **STUDY.**—Subject to the availability of appropriations, not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall enter into a contract with a private organization with established expertise and demonstrated capabilities in personnel systems and problems for the purpose of conducting a study and preparing a report concerning sexual harassment at the Department of State and the United States Information Agency.

(c) **REPORT.**—Together with such other information as is determined to be appropriate and informative, such report shall include—

(1) a determination of the reasons for the high rate of incidence of sexual harassment at such Federal agencies;

(2) an evaluation of the actions which have been proposed and implemented by such Federal agencies to respond to the findings of the Merit Systems Protection Board report;

(3) a proposal for further specific actions by each agency; and

(4) recommendations for such changes in administrative procedures, regulations, and legislation as may be considered necessary to address the problem of sexual harassment at the Department of State and the United States Information Agency.

(d) **SUBMISSION OF REPORT TO THE CONGRESS.**—Not later than one year after the date of the enactment of this Act, the Secretary of State shall submit the full and complete report of such study, together with such comments as the Secretary of State or the Director of the United States Information Agency consider appropriate, to the Committee on Foreign Affairs⁴⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 156. LIMITATION ON HOUSING BENEFITS.

(a)⁵⁰ **IN GENERAL.**—The Secretary of State shall establish and implement an appropriate housing policy and space standards in consultation with all agencies with employees outside the United States who are under the authority of the chief of mission or with other agencies or employees who participate in the overseas housing program. Such policy may not provide housing or related benefits based solely on the representational status of the employee, except if such individual is the ambassador, deputy chief of mission, permanent charge, or the consul general when serving as the principal officer.

(b) **WAIVER.**—The Secretary of State may grant exceptions to the restriction on providing housing or related benefits on a representational basis under subsection (a) on a case-by-case basis where a documented need for such exception is established. The Secretary of State shall prepare a comprehensive list annually of all such exceptions granted under this subsection.

⁵⁰ 5 U.S.C. 5921 note.

**PART E—FOREIGN LANGUAGE COMPETENCE WITHIN
THE FOREIGN SERVICE**

**SEC. 161.⁵¹ EXPANSION OF MODEL FOREIGN LANGUAGE COMPETENCE
POSTS.**

(a) DESIGNATION OF POSTS.—In order to carry out the purposes of section 702 of the Foreign Service Act of 1980, and in light of the positive report issued on March 28, 1986, by the Department of State, as required by section 2207 of the Foreign Service Act of 1980, the Secretary of State shall designate as model foreign language competence posts a minimum of six Foreign Service posts, representing the Department of State's five geographic bureaus, in countries where English is not the common language. Such designation shall be made not later than 120 days after the date of enactment of this Act,⁵² and shall be implemented so that not later than October 1, 1991, in the case of non-hard language posts, and October 1, 1992, in the case of hard language posts, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.

(b) "HARD LANGUAGE COUNTRY" POST TO BE DESIGNATED.—At least one of the posts designated under subsection (a) shall be in a "hard language" country, as identified in the report to the Under Secretary of State for Management of May 12, 1986, entitled "Hard Language Proficiency in the Foreign Service". Such post shall be in one of the countries where the official or principal language is Arabic, Chinese, Japanese, or Russian.

(c) TERMINATION DATE.—The posts designated under subsection (a) shall continue as model foreign language posts at least until September 30, 1993, in the case of non-hard language posts, and September 30, 1994, in the case of hard language posts.⁵³

(d) EXEMPTION AUTHORITY.—The Secretary of State may authorize exceptions to the requirements of this section if—

(1) he determines that unanticipated exigencies so require; and

(2) he immediately reports such exceptions to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁴⁸ of the House of Representatives.

(e) EXCLUDED POSTS.—The posts designated under subsection (a) may not include Dakar, Senegal, or Montevideo, Uruguay. The report required under subsection (c) shall include progress made in these posts in maintaining the high foreign language standards achieved under the initial pilot program.

⁵¹ 22 U.S.C. 4171 note.

⁵² Sec. 320(b)(3) of Public Law 101-302 (104 Stat. 247) struck out "February 1, 1990" and inserted in lieu thereof "120 days after the date of enactment of this Act".

⁵³ Sec. 2219(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-817), struck out "Not later than January 31, 1995, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the operation of such posts and the costs, advantages, and disadvantages associated with meeting the foreign language competence requirements of this section."

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 162. REPORT ON FOREIGN LANGUAGE ENTRANCE REQUIREMENT FOR THE FOREIGN SERVICE.

Not later than 120 days after the date of enactment of this Act,⁵⁴ the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives⁵⁵ a report evaluating an entrance requirement for the Foreign Service of at least one world language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute, or one nonworld language at the next lowest proficiency level. Such report shall also describe—

- (1) the amount of time necessary to implement such a requirement;
- (2) the use of bonus points on the Foreign Service candidate scoring system for candidates with foreign language ability; and
- (3) the adjustments necessary to raise otherwise qualified candidates, especially including affirmative action applicants, to the levels required for entrance as evaluated in the report required by this section.

SEC. 163.⁵⁶ FOREIGN SERVICE PROMOTION PANELS.

It is the sense of the Congress that, to the greatest extent possible, Foreign Service promotion panels should—

- (1) only promote candidates to the Senior Foreign Service who have demonstrated foreign language proficiency in at least one language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute;
- (2) strive for the objective stipulated in the Foreign Service Manual “to be able to use two foreign languages at a minimum professional level of proficiency of S-3/R-3, which is the general professional speaking proficiency level”; and
- (3) have at least one person on each Foreign Service promotion panel who has attained at least the General Professional Speaking Proficiency level in one language level.

⁵⁴Sec. 320(n)(4) of Public Law 101-302 (104 Stat. 247) struck out “December 31, 1989” and inserted in lieu thereof “120 days after the date of enactment of this Act”.

⁵⁵Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

⁵⁶22 U.S.C. 4001 note.

SEC. 164.⁵⁷ * * * [Repealed—1994]

**TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

PART A—UNITED STATES INFORMATION AGENCY⁵⁸

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**PART B—BUREAU OF EDUCATIONAL AND CULTURAL
AFFAIRS**⁵⁹

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PART C—VOICE OF AMERICA⁶⁰

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PART D—TELEVISION BROADCASTING TO CUBA⁶¹

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**TITLE III—BOARD FOR INTERNATIONAL
BROADCASTING**⁶²

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**TITLE IV—INTERNATIONAL ORGANIZATIONS AND
COMMISSIONS**

**SEC. 401. UNITED STATES MEMBERSHIP IN INTERNATIONAL SUGAR
ORGANIZATION AND INTERNATIONAL TROPICAL TIMBER
ORGANIZATION.**

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the International Sugar Organization and the International Tropical Timber Organization.

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For the fiscal year 1991 and for each fiscal year thereafter, the United States assessed contributions to such organizations may be paid from funds appropriated for “Contributions to International Organizations”.

**SEC. 402. AUTHORIZATION FOR MEMBERSHIP IN THE INTERNATIONAL
UNION FOR THE CONSERVATION OF NATURE AND NATU-
RAL RESOURCES.**

The President is authorized to maintain membership of the United States in the International Union for the Conservation of Nature and Natural Resources (IUCN).

⁵⁷ Formerly at 22 U.S.C. 4001 note. Repealed by sec. 191(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 418). Sec. 164 had required a revision of the Employee Evaluation Report and the Officer Evaluation Report for Foreign Service officers to reflect foreign language proficiency.

⁵⁸ For text of freestanding provisions in this part relating to the United State Information Agency, see page 1291.

⁵⁹ For text of freestanding provisions in this part relating to the Bureau of Educational and Cultural Affairs, see page 1294.

⁶⁰ For text of freestanding provisions in this part relating to the Voice of America, see page 1296.

⁶¹ For text of freestanding provisions in this part, the Television Broadcasting to Cuba Act, see page 1521.

⁶² For text of freestanding provisions in this title relating to the Board for International Broadcasting, see page 1507.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR MEMBERSHIP IN WILDLIFE CONVENTIONS.

There are authorized to be appropriated to the President \$1,511,000 for the fiscal year 1990 and \$1,571,440 for the fiscal year 1991 in support of United States participation in the following international environmental organizations and conventions of which not more than—

(1)⁶³ \$650,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);

(2)⁶⁴ \$231,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the International Tropical Timber Organization (ITTO);

(3)⁶⁵ \$450,000 for the fiscal year 1990 shall be available to support United States participation in the World Heritage Convention; and

(4)⁶⁶ \$180,000 for the fiscal year 1990 shall be available to support United States participation in the International Union for the Conservation of Nature and Natural Resources.

SEC. 404.⁶⁷ AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION ON THE UKRAINE FAMINE.

There are authorized to be appropriated for the Commission on the Ukraine Famine \$100,000 for the fiscal year 1990, which amount is authorized to remain available until expended.

SEC. 405.⁶⁸ * * * [Repealed—1991]

SEC. 406.⁶⁹ ANNUAL REPORT TO CONGRESS ON VOTING PRACTICES AT THE UNITED NATIONS.

(a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a full and complete annual report which as—

⁶³The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1199), provided \$750,000 for the “Convention on International Trade in Endangered Species”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$750,000.

⁶⁴The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$1,000,000 for the “International Tropical Timber Organization. See also sec. 533 of that Act in *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁶⁵The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1199), provided \$220,000 for “United States participation in the World Heritage Convention”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$450,000.

⁶⁶The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$680,000 for the “International Union for the Conservation of Nature and Natural Resources”.

⁶⁷Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1019), provided \$100,000 for the “Commission on the Ukraine Famine”.

⁶⁸Formerly at 22 U.S.C. 287e note. Sec. 405, relating to reform in budget decision-making procedures of the United Nations and its specialized agencies, was repealed by sec. 162(e) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 675).

⁶⁹22 U.S.C. 2414a. See also sec. 560 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1535); and sec. 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900).

sesses for the preceding calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and which evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding calendar year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the votes cast by each member country with the vote cast by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the Report to Congress on Voting Practices in the United Nations, dated March 14, 1988.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e)⁷⁰ TECHNICAL AND CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The second undesignated paragraph of section 101(b)(1) of the Foreign Assistance and Related Programs Appropriations Act, 1984 (Public Law 98-151; 97 Stat. 967).

(2) Section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986, as enacted by Public Law 99-190 (99 Stat. 1307).

(3) Section 528 of the Foreign Assistance and Related Programs Appropriations Act, 1987, as enacted by Public Law 99-500 (100 Stat. 1783) and Public Law 99-591 (100 Stat. 3341).

(4) Section 528 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as enacted by Public Law 100-202 (101 Stat. 1329).

(5) Section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as enacted by Public Law 100-461.

SEC. 407.⁷¹ DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO THE UNITED NATIONS.

(a) IN GENERAL.—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80-357), to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests.

(b) WAIVER.—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States.

SEC. 408. POLICY ON UNESCO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States withdrew from the United Nations Educational, Scientific, and Cultural Organization (UNESCO) on December 31, 1984, in response to grave and persistent problems in UNESCO under the then-Director General;

(2) chief among these problems was the assault on the free flow of information supported by that Director General and the pervasive ideological conflict fomented by the alliance between totalitarian and developing nations;

(3) UNESCO has since acquired a new Director General, Federico Mayor, who has pledged his support for the free flow of information, the return of UNESCO to the principles enunciated in its Charter, and other needed changes in UNESCO policy;

(4) Soviet Foreign Minister Eduard Shevardnadze stated on October 11, 1988, that the Soviet Union was responsible for “the exaggerated ideological approach [that] undermined toler-

⁷⁰The provisions of law repealed by this subsection all pertained to United Nations voting record and reports required on same. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1224), repealed the same provisions.

⁷¹8 U.S.C. 1102 note.

ance intrinsic to UNESCO,” and stated that Soviet policy would improve in this regard;

(5) substantial progress remains to be made in implementing the reforms proposed by the new Director General and in determining the degree to which ideological conflict has actually declined; and

(6) when the United States withdrew from UNESCO, the policy of the United States was that at such time as satisfactory changes were achieved in UNESCO, the United States would act on reentry.

(b) **POLICY.**—It is the sense of the Congress that the Secretary of State should monitor closely the changes achieved in UNESCO and should work with United States allies and the UNESCO leadership to continue to promote the progress necessary to justify United States consideration of reentry into UNESCO.

(c) **REPORT REQUIRED.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report on the activities after December 31, 1984, of the United Nations Educational, Scientific, and Cultural Organization.

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SEC. 410. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

Notwithstanding section 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204),⁷² for each of the fiscal years 1990 and 1991, the Secretary of State shall not be required to make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is greater than 10 percent of the 1989 regular budget of the International Committee of the Red Cross.

SEC. 411. SENSE OF CONGRESS CONCERNING AN ENHANCED ROLE FOR THE INTERNATIONAL COURT OF JUSTICE IN RESOLUTION OF INTERNATIONAL DISPUTES.

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

(1) In 1945, the United States supported the establishment of the International Court of Justice (ICJ) to provide for the orderly resolution of disputes among nations under the rule of law.

(2) The United States, pursuant to Article 93 of the Charter of the United Nations, is also a party to the Statute of the International Court of Justice which provides in Article 36(1) that the International Court of Justice will have jurisdiction over “all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force”.

(3) In August 1946, the United States, pursuant to Senate advice and consent (61 Stat. 1218), voluntarily accepted the compulsory jurisdiction of the International Court of Justice in other international disputes under Article 36(2) of the Statute

⁷²Sec. 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, provided that “the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget.”

of the International Court of Justice, on certain conditions, and maintained such recognition for four decades from 1946 to 1986 when United States acceptance was terminated.

(4) The United States has utilized the International Court of Justice on numerous occasions to resolve disputes with other nations.

(5) In April 1984, the United States notified the Secretary General of the United Nations that the United States was suspending for two years its acceptance of the compulsory jurisdiction of the International Court of Justice in cases relating to Central America.

(6) In 1985, the United States announced it was terminating, in whole, United States acceptance (effective April 1, 1986) of the compulsory jurisdiction of the International Court of Justice.

(7) The Soviet Union, as a member of the United Nations, is also a party to the Statute of the International Court of Justice and is thus bound by Article 36(1).

(8) The Soviet Union, unlike the United States, has not since the inception of the International Court of Justice voluntarily accepted the compulsory jurisdiction of the ICJ under Article 36(2) or taken any other case voluntarily to the court.

(9) Soviet leader Mikhail Gorbachev, in his address to the United Nations in December of 1988 said: "We believe that the jurisdiction of the International Court of Justice at the Hague as regards the interpretation and implementation of agreements on human rights should be binding on all states."

(10) The Legal Adviser of the State Department is holding discussions with Soviet officials and representatives of other permanent members of the United Nations Security Council and other states to determine whether and how the International Court of Justice might be used for the peaceful settlement of international disputes through procedures that assure fairness and the protection of legitimate national interests.

(b) SENSE OF CONGRESS.—The Congress commends and strongly supports efforts by the United States to broaden, where appropriate, the compulsory jurisdiction and enhance the effectiveness of the International Court of Justice.

SEC. 412.⁷³ INTERNATIONAL BOUNDARY AND WATER COMMISSION.

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SEC. 413. REVIEW OF MULTILATERAL AND BILATERAL COMMISSIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Committee on Foreign Affairs⁷⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate which provides a review of United States participation in all multilateral and bilateral commissions for which appropriations are authorized to be made under the "International Commissions" account of the Department of State. Together with such comments and recommenda-

⁷³Sec. 412 amended various Public Laws relating to the International Boundary and Water Commission, United States and Mexico.

⁷⁴Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

tions as the Secretary considers appropriate, such report shall include—

- (1) a justification for United States participation in each multilateral or bilateral commission;
- (2) an assessment of the effectiveness of each multilateral or bilateral commission in which the United States participates; and
- (3) information concerning the cost of United States participation in each such commission.

SEC. 414.⁷⁵ MEMBERSHIP OF THE PALESTINE LIBERATION ORGANIZATION IN UNITED NATIONS AGENCIES.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.

(b) TRANSFER OR REPROGRAMMING.—Funds subject to the prohibition contained in subsection (a) which would be available for the United Nations or any specialized agency thereof (but for that prohibition) are authorized to remain available until expended and may be reprogrammed or transferred to any other account of the Department of State or the Agency for International Development to carry out the general purposes for which such funds were authorized.

SEC. 415. SENSE OF CONGRESS CONCERNING THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINIAN REFUGEES IN THE NEAR EAST (UNRWA).

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

- (1) international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) is crucial to the survival of such organization;
- (2) the Secretary of State should redouble the efforts of the Department of State to promote international burdensharing of the costs of UNRWA's operations; and
- (3) regular and substantial contributions by the Arab states to the budget of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East would reflect the commitment of Arab states to a peaceful political settlement in the Middle East.

(b) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit a report on progress being made to promote international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) to the Committee on Foreign Affairs⁷⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 416. UNITED NATIONS SPONSORSHIP OF A MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

- (1) the General Assembly of the United Nations adopted Resolution No. 3379 on November 10, 1975, maintaining that Zionism constituted a form of racism;

⁷⁵ 22 U.S.C. 287e note.

(2) most of the proposals for an international peace conference regarding the Middle East have identified the United Nations as the sponsoring organization for such a conference;

(3) all international diplomatic participants in any potential Middle East peace conference must acknowledge the sovereignty of the State of Israel and the right of its citizens to live within secure and permanent boundaries;

(4) United Nations General Assembly Resolution No. 3379 of November 10, 1975, damages the credibility of the General Assembly as a forum for furthering the search for peace in the Middle East; and

(5) the United States does not favor an international conference on the Middle East at this time, and believes that the Israeli proposal for elections that was advanced in May 1989 is the best available vehicle for furthering the Middle East peace process.

(b) POLICY.—The Congress declares, therefore, that—

(1) the United States should use all appropriate means to obtain rescission by the United Nations General Assembly of Resolution No. 3379 and calls upon the General Assembly to do so; and

(2) so long as that resolution remains in effect, the General Assembly and all affiliated agencies of the United Nations constitute an inappropriate forum for the sponsorship of any international conference on the Arab-Israeli conflict.

SEC. 417.⁷⁶ CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES IN SOUTHERN AFRICA.

(a) ASSURANCES THAT ALL CUBAN TROOPS WILL BE WITHDRAWN.—The United States may not, after the date of enactment of this Act, expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement until the President certifies to the Congress that—

(1) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date; and

(2) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) CONTRIBUTIONS CONDITIONAL ON COMPLIANCE.—The United States may not expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement—

(1) if the Government of Cuba fails at any time to comply with any of its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops); or

⁷⁶ See also title II, sec. 4 of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 120).

(2) if any Cuban troops remain in Angola after July 1, 1991.

(c) **REPORTS TO CONGRESS, COMPLIANCE WITH OBLIGATIONS.**—Not more than 15 days after each scheduled phase of the redeployment northward and withdrawal of Cuban troops pursuant to the Bilateral Agreement, the President shall submit to the appropriate congressional committees a report on whether each of the signatories of the Tripartite Agreement is complying with its obligations under the agreement. Whenever he has determined that a material breach of the Tripartite Agreement may have been committed by any of the signatories to that agreement, the President shall so report to the appropriate congressional committees.⁷⁷

(d) **DISBURSEMENTS.**—Of the amount authorized to be appropriated to be made available for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa signed at the United Nations on December 22, 1988 (hereinafter known as the Tripartite Agreement) 50 percent of the annual amount shall be available on October 1, 1989, and the remaining 50 percent on April 1, 1990, only if the President determines and certifies to the appropriate congressional committees as of each date that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(e) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(f) For purposes of this section—

(1) the term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(2) the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba,

⁷⁷In Presidential Determination No. 91-13 of January 7, 1991 (56 F.R. 3001), the President certified that the United States had received assurances from the U.N. Secretary General and all parties to the bilateral agreement between the Governments of Angola and Cuba that all Cuban troops would be withdrawn from Angola by July 1, 1991, and that no Cuban troops would remain in Angola after that date. The President also determined that all signatories to the tripartite agreement among Angola, Cuba, and South Africa were in compliance with their obligations under that agreement, Cuba was complying with a agreed-to calendar for redeploying and withdrawing its troops, and that Cuba had not engaged in offensive military actions, nor had it used chemical warfare. The President further determined that the United Nations and its affiliates had terminated funding and other support to SWAPO, and that the U.N. Angola Verification Mission was demonstrating diligence, impartiality and professionalism in verifying the departure of Cuban troops.

and the Republic of South Africa, signed at the United Nations on December 22, 1988; and

(3) the term “appropriate congressional committees” means the Committees on Appropriations, Foreign Affairs,⁷⁴ and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

TITLE V—ASIA FOUNDATION⁷⁸

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TITLE VI—INTER-AMERICAN FOUNDATION⁷⁹

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TITLE VII—REFUGEE AND OTHER PROVISIONS

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SEC. 702. TIBETAN AND BURMESE REFUGEES.

(a)⁸⁰ TIBETAN REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for “Migration and Refugee Assistance” \$500,000 for the fiscal year 1990 and \$500,000 for the fiscal year 1991 shall be available only for assistance for displaced Tibetans in India and Nepal. The Secretary of State shall determine the best means for providing such assistance.

(b)^{80, 81} BURMESE REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for “Migration and Refugee Assistance” \$250,000 for the fiscal year 1990 and \$250,000 for the fiscal year 1991 shall be available only for humanitarian assistance for displaced Burmese on both sides of the border between Thailand and Burma.

SEC. 703. REPORT REGARDING BURMESE STUDENTS.

(a) REPORTING REQUIREMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of State, in consultation with the Attorney General, shall submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs⁷⁴ and the Committee on the Judiciary of the House of Representatives a report on the immigration and refugee policy of the United States regarding Burmese

⁷⁸Title V amended sec. 404 of the Asia Foundation Act (Public Law 98-164).

⁷⁹Title VI amended the Inter-American Foundation Act (title IV of Public Law 91-175). For text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁸⁰Sec. 1102 of this Act waived sec. 702(a) and (b) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

⁸¹Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1211), under Migration and Refugee Assistance, provided: “That of the funds appropriated under this heading, \$250,000 shall be made available notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for displaced Burmese students at camps on the border with Thailand.”

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1996), under Migration and Refugee Assistance, provided: “That of the funds appropriated under this heading, \$250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict”.

pro-democracy protesters who have fled from the military government of Burma and are now located in border camps or inside Thailand. Specifically, the report shall include—

(1) a description of the number and location of such persons in border camps in Burma, inside Thailand, and in third countries;

(2) the number of visas, parole applications, applications for refugee status, and approvals for such persons by the United States and the feasibility of using parole or the need for creating statutory alternatives to parole to facilitate the entry of such persons;

(3) the immigration policy of Thailand and other countries from which such persons have sought immigration assistance;

(4) the involvement of international organizations, such as the United Nations High Commission for Refugees, in meeting the residency needs of such persons; and

(5) the involvement of the United States, other countries, and international organizations in meeting the humanitarian needs of such persons.

(b) **RECOMMENDATIONS FOR LEGISLATIVE CHANGES.**—The Secretary of State shall recommend in the report required by subsection (a) any policy or legislative changes he deems appropriate to meet the asylum, refugee, parole, or visa status needs of such persons.

(c) **DEFINITION.**—As used in this section, the term “pro-democracy protester” means any person who has fled from the current military regime of Burma since the outbreak of pro-democracy demonstrations in Burma in 1988.

SEC. 704. THE TREATMENT OF THE TURKISH MINORITY BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA AND BULGARIAN REFUGEES IN TURKEY.

(a) **FINDINGS.**—The Congress finds that—

(1) the Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Final Act of the Conference on Security and Cooperation in Europe (also known as the Helsinki Accords);

(2) the Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

(3) the 1971 Constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees minorities the rights to study in their mother tongue and freely practice their religion;

(4) despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception of Turkish radio and television programs in Bulgaria;

(5) the right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

(6) emigration by ethnic Turks and others has been banned with only a few exceptions;

(7) beginning in December 1984, the Bulgarian authorities forced the Turkish minority to change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

(8) the Bulgarian authorities have used both force and coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

(9) in May 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

(10) hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

(11) since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families.

(b) **POLICY.**—It is the sense of the Congress that the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Government of Bulgaria to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international forums, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

(c) ⁸² **ALLOCATION OF FUNDS FOR ASSISTANCE TO CERTAIN TURKISH REFUGEES.**—Of the funds authorized to be appropriated by section 104(a)(1) for the fiscal year 1990, \$10,000,000 shall be available only to the Republic of Turkey for assistance for shelter, food, and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling in the sovereign territory of Turkey.

⁸²Sec. 1102 of this Act waived sec. 704(c) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

TITLE VIII—PLO COMMITMENTS COMPLIANCE ACT OF
1989⁸³**SEC. 801. SHORT TITLE.**

This title may be cited as the “PLO Commitments Compliance Act of 1989”.

SEC. 802. FINDINGS.

The Congress finds that—

(1) United States policy regarding contacts with the Palestine Liberation Organization (including its Executive Committee, the Palestine National Council, and any constituent groups related thereto (hereafter in this title referred to as the “PLO”)) set forth in the Memorandum of Agreement between the United States and Israel, dated September 1, 1975, stated that the United States “will not recognize or negotiate with the Palestine Liberation Organization so long as the PLO does not recognize Israel’s right to exist and does not accept United Nations Security Council Resolutions 242 and 338”;

(2) section 1302 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151 note; Public Law 99-83), effective October 1, 1985, stated that “no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the PLO or any representatives thereof (except in emergency or humanitarian situations) unless and until the PLO recognizes Israel’s right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism”;

(3) the Department of State statement of November 26, 1988, found that “the United States Government has convincing evidence that PLO elements have engaged in terrorism against Americans and others” and that “Mr. [Yasser] Arafat, Chairman of the PLO, knows of, condones, and lends support to such acts; he therefore is an accessory to such terrorism”;

(4) Secretary of State Shultz declared on December 14, 1988, that “the [PLO] today issued a statement in which it accepted United Nations Security Council Resolutions 242 and 338, recognized Israel’s right to exist in peace and security, and renounced terrorism. As a result, the United States is prepared for a substantive dialogue with PLO representatives”;

(5) President Ronald Reagan, subsequent to the decision to open a United States-PLO dialogue, stated that the PLO “must demonstrate that its renunciation of terrorism is pervasive and permanent” and if the PLO reneges on its commitments, the United States “will certainly break off communications”;

(6) since the United States agreed to enter into a dialogue with the PLO, there have been several attempted incursions into Israel by the following PLO-affiliated groups: the Popular Struggle Front, the Palestine Liberation Front, the Democratic

⁸³ On March 14, 1990, the President designated and empowered “the Secretary of State to perform, without the approval, ratification, or other approval of the President, the functions of the President set forth in Title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; Public Law 101-246.” (55 F.R. 11131).

See other legislation on “Diplomatic Security and Anti-Terrorism” at page 880.

Front for the Liberation of Palestine, and the Islamic Jihad group;

(7) Yasser Arafat has not renounced any of these incidents, that he has threatened “ten bullets in the chest” to those Palestinians who advocate a cessation of the unrest, and that his principal deputy, Abu Iyad, as well as other senior Al-Fatah figures, have been quoted as saying that the PLO recognition of Israel and renunciation of terrorism is merely tactical and that a Palestinian state is but the first step in the “liberation of Palestine”;⁸⁴

(8)⁸⁵ the President, following an attempted terrorist attack upon a Tel Aviv beach on May 30, 1990, suspended the United States dialogue with the PLO;

(9)⁸⁵ the President resumed the United States dialogue with the PLO in response to the commitments made by the PLO in letters to the Prime Minister of Israel and the Foreign Minister of Norway of September 9, 1993; and

(10)⁸⁶ that the United States should regularly evaluate the PLO’s compliance with the commitments made by Yasser Arafat on behalf of the PLO in Geneva on December 14, 1988 and on September 9, 1993.⁸⁷

SEC. 803. POLICY.

(a) IN GENERAL.—The Congress reiterates long-standing United States policy that any dialogue with the PLO be contingent upon the PLO’s recognition of Israel’s right to exist, its acceptance of United Nations Security Council Resolutions 242 and 338, and its abstention from and renunciation of all acts of terrorism.

(b) POLICY TOWARD IMPLEMENTATION OF PLO COMMITMENTS.—It is the sense of the Congress that the United States, in any discussions with the PLO, should seek—

(1) the prevention of terrorism and other violent activity by the PLO or any of its factions; and

(2) the implementation of concrete steps by the PLO consistent with its commitments to recognize Israel and renounce terrorism, including concrete actions that will further the peace process such as—

(A) disbanding units which have been involved in terrorism;

(B) publicly condemning all acts of terrorism;

(C) ceasing the intimidation of Palestinians who advocate a cessation of or who do not support the unrest;

(D) calling on the Arab states to recognize Israel and to end their economic boycott of Israel; and

(E) amending the PLO’s Covenant to remove provisions which undermine Israel’s legitimacy and which call for Israel’s destruction.

⁸⁴Sec. 524(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “and” at the end of para. (7).

⁸⁵Sec. 524(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), added paras. (8) and (9).

⁸⁶Sec. 524(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), redesignated former para. (8) as para. (10).

⁸⁷Sec. 524(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), inserted “and on September 9, 1993”.

(c) **POLICY TOWARD RECENT ARMED INCURSIONS INTO ISRAEL BY PLO-AFFILIATED GROUPS.**—During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

(1) On December 26, 1988, an attempted armed infiltration into Israel by boat by four members of the PLO-affiliated Popular Struggle Front.

(2) On December 28, 1988, an attempted armed infiltration into Israel by three members of the PLO-affiliated Palestine Liberation Front.

(3) On January 24, 1989, an unprovoked attack on an Israeli patrol in Southern Lebanon by the PLO-affiliated Palestine Liberation Front.

(4) On February 5, 1989, an attempted armed infiltration into Israel by nine members of the PLO-affiliated Palestine Liberation Front and Popular Front for the Liberation of Palestine.

(5) On February 23, 1989, an attempted attack on targets in Israel by members of the PLO-affiliated Democratic Front for the Liberation of Palestine.

(6) On February 27, 1989, a PLO-affiliated Popular Front for the Liberation of Palestine ambush of a pro-Israeli Southern Lebanese army vehicle.

(7) On March 2, 1989, an attempted armed infiltration into Israel by four members of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for the civilian town of Zarit.

(8) On March 13, 1989, an attempted armed infiltration into Israel by three members of the PLO-aligned Palestine Liberation Front.

(9) On March 15, 1989, an attempted attack on Israel through Gaza by two members of the Islamic Jihad group.

SEC. 804. REPORTING REQUIREMENT.

(a) **REPORT ON ARMED INCURSIONS.**—In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall, within 30 days after the next round of such talks, report to the Chairman of the Committee on Foreign Affairs⁸⁸ of the Senate and the Speaker of the House of Representatives any accounting provided by the representative of the PLO of the incidents described in section 803(c).

(b) **REPORT ON COMPLIANCE WITH COMMITMENTS.**—In conjunction with each written policy justification required under section 604(b)(1) of the Middle East Peace Facilitation Act of 1994⁸⁹ or

⁸⁸ As enrolled. Should read "Committee on Foreign Relations".

⁸⁹ Sec. 1(kk)(1) of Public Law 103-415 (108 Stat. 4303) struck out "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserted in lieu thereof "section 583(b)(1) of the Middle East Peace Facilitation Act of 1994". Sec. 606(1) of the Middle East Peace Facilitation Act of 1995 (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107; 110 Stat. 760) also sought to strike out "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and insert in lieu thereof "section 604(b)(1) of the Middle East Peace Facilitation Act of 1995". This amendment is not executable

every 180 days,⁹⁰ the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report, in unclassified form to the maximum extent practicable, regarding progress toward the achievement of the measures described in section 803(b). Such report shall include—

(1) a description of actions or statements by the PLO as an organization, its Chairman, members of its Executive Committee, members of the Palestine National Council, or any constituent groups related thereto, as they relate to the Geneva commitments of December 1988 and each of the commitments described in section 604(b)(4) of the Middle East Peace Facilitation Act of 1995⁹¹ including actions or statements that contend that the declared “Palestinian state” encompasses all of Israel;

(2) a description of the steps, if any, taken by the PLO to evict or otherwise discipline individuals or groups taking actions inconsistent with the Geneva and Oslo⁹² commitments;

(3) a statement of whether the PLO, in accordance with procedures in Article 33 of the Palestinian National Covenant, has repealed provisions in that Covenant which call for Israel’s destruction;

(4) a statement of whether the PLO has repudiated its “strategy of stages” whereby it seeks to use a Palestinian state in the West Bank and Gaza as the first step in the total elimination of the state of Israel;

(5) a statement of whether the PLO has called on any Arab state to recognize and enter direct negotiations with Israel or to end its economic boycott of Israel;

(6) a statement of whether “Force 17” and the “Hawari Group”, units directed by Yasser Arafat that have carried out terrorist attacks, have been disbanded and not reconstituted under different names;

(7) a statement of whether the following PLO constituent groups conduct or participate in terrorist or other violent activities: the Fatah; the Popular Front for the Liberation of Pal-

as stated, but the reference to the 1995 Act is incorporated here in keeping with congressional intent.

⁹⁰Sec. 524(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued” and inserted in lieu thereof “In conjunction with each written policy justification required under section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994 or every 180 days,” [resulting in a double comma].

⁹¹Sec. 524(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “regarding [the] cessation of terrorism and recognition of Israel’s right to exist” and inserted in lieu thereof “and each of the commitments described in section (4)(A) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)”.

Subsequently, sec. 1(kk)(2) of Public Law 103-415 (108 Stat. 4303) struck out “section (4)(a) of the Middle East Peace Facilitation Act of 1994” and inserted in lieu thereof “section 584(a) of the Middle East Peace Facilitation Act of 1994”.

Subsequently, sec. 606(2) of the Middle East Peace Facilitation Act of 1995 (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107; 110 Stat. 760) also sought to strike out “section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)” and insert in lieu thereof “section 604(b)(1) of the Middle East Peace Facilitation Act of 1995”. This amendment is not executable as stated, but the reference to the 1995 Act is incorporated here in keeping with congressional intent.

⁹²Sec. 524(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), inserted “and Oslo” after “Geneva”.

estine; the Democratic Front for the Liberation of Palestine; the Arab Liberation Front; the Palestine Liberation Front;

(8) a statement of the PLO's position on the unrest in the West Bank and Gaza, and whether the PLO threatens, through violence or other intimidation measures, Palestinians in the West Bank and Gaza who advocate a cessation of or who do not support the unrest, and who might be receptive to taking part in elections there;

(9) a statement of the position of the PLO regarding the prosecution and extradition, if so requested, of known terrorists such as Abu Abbas, who directed the Achille Lauro hijacking during which Leon Klinghoffer was murdered, and Muhammed Rashid, implicated in the 1982 bombing of a PanAm jet and the 1986 bombing of a TWA jet in which four Americans were killed;⁹³

(10) a statement of the position of the PLO on providing compensation to the American victims or the families of American victims of PLO terrorism; and⁹³

(11)⁹³ measures taken by the PLO to prevent acts of terrorism, crime and hostilities and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.

(c) REPORT ON POLICIES OF ARAB STATES.—Not more than 30 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the policies of Arab states toward the Middle East peace process, including progress toward—

(1) public recognition of Israel's right to exist in peace and security;

(2) ending the Arab economic boycott of Israel; and

(3) ending efforts to expel Israel from international organizations or denying participation in the activities of such organizations.

TITLE IX—PEOPLE'S REPUBLIC OF CHINA

SEC. 901. FINDINGS AND STATEMENTS OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) on June 4, 1989, the Government of the People's Republic of China ordered an unprovoked, brutal, and indiscriminate assault on thousands of peaceful and unarmed demonstrators and onlookers in and around Tiananmen Square by units of the People's Liberation Army, which resulted in at least 1,000 deaths and several thousand injuries;

(2) the Chinese Government has executed dozens of individuals who participated in prodemocracy demonstrations or who protested the brutal military assault against peaceful demonstrators;

(3) the Government of the People's Republic of China is engaging in widespread mass arrests in the aftermath of the June 4, 1989, military assault in Tiananmen Square, which

⁹³ Sec. 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1653), replaced “; and” in para. (9) with a semicolon; struck out the period at the end of para. (10) and inserted in lieu thereof “; and”; and added a new para. (11).

have resulted in the arrests of thousands of students, workers, and other civilians so far;

(4) independent international human rights organizations, such as Amnesty International and Asia Watch, have documented daily incidences of arbitrary arrests, torture, and beatings by police and military forces in the People's Republic of China;

(5) the Chinese Government has established telephone hotlines and other local communications networks for the express purpose of identifying and imprisoning prodemocracy supporters and political dissidents throughout the country;

(6) officials of the Chinese Government have grossly distorted the Government's actions to suppress the prodemocracy movement, including the clandestine disposal of the bodies of demonstrators without informing their families, and have consistently denied that the massacre in and around Tiananmen Square took place or that abuses of human rights have occurred;

(7) in an effort to conceal the truth about the Chinese Government's brutal suppression of the prodemocracy movement, foreign journalists have been expelled and Voice of America broadcasts are being jammed;

(8) in view of the widespread and continuing repression, noted Chinese intellectuals and advocates of peaceful democratic reform, Fang Lizhi and Li Shuxian, sought refuge at the United States Embassy in Beijing on June 3, 1989, and the United States exercised its prerogatives under longstanding practices of diplomatic missions by granting them refuge; and

(9) the President has condemned the actions of the leaders of the People's Republic of China against participants in the prodemocracy movement in China and has taken several concrete steps to respond to the repression of the movement, including—

(A) suspending all exports of items on the United States Munitions List, including arms and defense related equipment, to the People's Republic of China;

(B) suspending high level government-to-government contact between the United States and the People's Republic of China;

(C) extending the visas of nationals of the People's Republic of China currently in the United States;

(D) offering humanitarian and medical assistance to the injured through the Red Cross;

(E) instructing United States representatives to international financial institutions to seek delay in the consideration of loan requests that are made to those financial institutions and would benefit the People's Republic of China;

(F) suspending action on applications for the issuance by the Overseas Private Investment Corporation of new insurance and financing of investments in the People's Republic of China by United States investors;

(G) opposing the further liberalization of the guidelines of the group known as the Coordinating Committee

(COCOM) regarding trade with the People's Republic of China;

(H) taking no further action to implement the agreement for cooperation between the United States and the People's Republic of China relating to the uses of nuclear energy, thereby foreclosing the issuance of new licenses; and

(I) suspending the license for the export of any United States manufactured satellites for launch on launch vehicles owned by the People's Republic of China, including the two Aussat satellites and the Asiasat satellite.

(b) STATEMENTS OF POLICY.—It is the sense of the Congress that—

(1) the President is to be commended for his clear articulation of United States condemnation of the actions of the Government of the People's Republic of China in the killing and persecution of the participants of the prodemocracy movement in the People's Republic of China, and for the responses and measures by the President against the People's Republic of China, which the Congress supports;

(2) the consultative approach that the President has used in coordinating with other countries the United States response to the atrocities committed by the leaders of the People's Republic of China should be supported;

(3) it is essential that the United States speak in a bipartisan and unified voice in response to the events in the People's Republic of China, and that the President be given the necessary flexibility to respond to rapidly changing situations so that the long-term interests of the United States are not damaged;

(4) in this vein, the President should continue to emphasize to the leaders of the Government of the People's Republic of China that resumption of normal diplomatic and military relations between the United States and the People's Republic of China will depend directly on the Chinese Government's halting of executions of prodemocracy movement supporters, releasing those imprisoned for their political beliefs, and increasing respect for internationally recognized human rights;

(5) because human rights violations in a country as populous as the People's Republic of China may have serious implications for the stability of the Asia-Pacific region, the United Nations should, in order to further regional security and peace, condemn the violent repression, mass arrests, abuse of African students, and executions of peaceful demonstrators by the Government of the People's Republic of China and urge the Chinese Government to enter into negotiations with representatives of the prodemocracy movement;

(6) United States policy toward the People's Republic of China should be explicitly linked with the situation in Tibet, specifically as to whether—

(A) martial law is lifted in Lhasa and other parts of Tibet;

(B) Tibet is open to foreigners, including representatives of the international press and of international human rights organizations;

- (C) Tibetan political prisoners are released; and
 - (D) the Government of the People's Republic of China is entering into negotiations with representatives of the Dalai Lama on a settlement of the Tibetan question;
- (7) with respect to Hong Kong—
- (A) the President should convey to the leaders of the People's Republic of China the importance of living up to its international undertaking with respect to the 1984 Joint Declaration for the future prosperity and stability of Hong Kong; and
 - (B) the Secretary of State should convey to the Government of the United Kingdom the strong concern of the United States for continued respect for human rights in Hong Kong, and the need to accelerate progress toward representative government through free and fair direct elections;
- (8) the United States should offer admission to the United States to any national of the People's Republic of China who is under threat of severe penalty as a result of participating in prodemocracy activities; and
- (9) the President should be commended for his courageous and appropriate action, in accordance with the Vienna Convention on Diplomatic Relations and customary international law, in swiftly providing temporary refuge to Fang Lizhi and Li Shuxian at the United States Embassy in Beijing, and the President should continue to provide refuge to those individuals to ensure their personal safety.
- (c) ADDITIONAL MEASURES.—It is further the sense of the Congress that, in addition to the measures already taken or required to be taken by this title—
- (1) because systematic repression in China continues, the President should urge the Export-Import Bank of the United States to continue to postpone approval of any application for financing United States exports to the People's Republic of China;
 - (2) under the direction of the Secretary of the Treasury, the United States executive directors of the appropriate international financial institutions should continue to oppose the extension of loans or any other financial assistance by such institutions to the People's Republic of China;
 - (3) if systematic repression in China deepens, the President should review—
 - (A) the advisability of continuing to extend most-favored-nation (MFN) trade treatment to Chinese products;
 - (B) all bilateral trade agreements between the United States and the People's Republic of China;
 - (C) the bilateral commercial agreements governing Chinese-American cooperation on satellite launches; and
 - (D) the Chinese-American Agreement for Cooperation on the Peaceful Uses of Atomic Energy, signed at Washington on July 23, 1985;
 - (4) if systematic repression in China deepens, the President should consult—

(A) with the members of the group known as the Coordinating Committee (COCOM) for the purpose of reviewing the current favorable treatment accorded to high technology exports to the People's Republic of China; and

(B) with the other signatories of the General Agreement on Tariffs and Trade (GATT) for the purpose of reviewing the People's Republic of China's observer status at meetings on GATT and reassessing the People's Republic of China's right to accede to GATT.

SEC. 902.⁹⁴ SUSPENSION OF CERTAIN PROGRAMS AND ACTIVITIES.

(a) **SUSPENSIONS.—**

(1) **OVERSEAS PRIVATE INVESTMENT CORPORATION.—**The Overseas Private Investment Corporation shall continue to suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

(2) **TRADE AND DEVELOPMENT AGENCY.—**The President shall suspend the obligation of funds under the Foreign Assistance Act of 1961 for any new activities of the Trade and Development Agency⁹⁵ with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

(3) **MUNITIONS EXPORT LICENSES.—**(A) The issuance of licenses under section 38 of the Arms Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall continue to be suspended, subject to subparagraph (B), unless the President makes a report under subsection (b) (1) or (2) of this section.

(B) The suspension set forth in subparagraph (A) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

(4) **CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.—**The issuance of any license under section 6(k)⁹⁶ of the Export Administration Act of 1979 for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

⁹⁴ 22 U.S.C. 2151 note. See also sec. 1306 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2706); secs. 1511 through 1516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2173 *et seq.*); and title XIV of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 797 *et seq.*).

⁹⁵ Sec. 202(e) of Public Law 102-549 (106 Stat. 3658) provided that "Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency."

⁹⁶ Section 6(k) of the Export Administration Act has been redesignated as sec. 6(n).

(5)⁹⁷ EXPORT OF SATELLITES FOR LAUNCH BY THE PEOPLE'S REPUBLIC OF CHINA.—Exports of any satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China shall remain suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

(6) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

(i) application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended,

(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended,

(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given, and

(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to the use of nuclear energy under section 57b.(2) of the Atomic Energy Act of 1954 shall not be given, until the conditions specified in subparagraph (B) are met.

(B)⁹⁸ Subparagraph (A) applies until—

⁹⁷Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1038) provided the following:

“SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

“(b) The restriction on the approval of export licenses for United States-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

“(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

“(A) lifting of martial law;

“(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

“(C) release of political prisoners;

“(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

“(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

“(c) It is in the national interest of the United States.”

On December 19, 1989, the President reported in letters to the Speaker of the House of Representatives and President of the Senate the following:

“Pursuant to the authority vested in me by section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (P.L. 101-162) (“the Act”), and as President of the United States, I hereby report that is in the national interest of the United States to lift the prohibition on reinstatement and approval of export licenses for the three United States-built AUSSAT and AsiaSat satellites for launch on Chinese-built launch vehicles.” [Weekly Compilation of Presidential Documents, volume 25, number 51, December 25, 1989, p. 1972]

⁹⁸On January 12, 1998, the President determined and certified that: “Pursuant to section (b)(1) of Public Law 99-183 of December 16, 1985, relating to the approval and implementation

(i) the President certifies to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

(ii) the President makes the certifications and submits the report required by Public Law 99-183; and

(iii) the President makes a report under subsection (b) (1) or (2) of this section.

(C) For purposes of this paragraph, the term "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy (done on July 23, 1985).

(7) LIBERALIZATION OF EXPORT CONTROLS.—(A) The President shall negotiate with the governments participating in the group known as the Coordinating Committee (COCOM) to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979, including—

(i) the implementation of bulk licenses for exports to the People's Republic of China; and

(ii) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

(B) The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (A)(ii), until the end of the 6-month period beginning on the date of enactment of this Act or until the President makes a report under subsection (b) (1) or (2) of this section, whichever occurs first.

(b) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (a) is a report by the President to the Congress either—

(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, including Tibet, which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

of the Agreement for Cooperation Between the United States and the People's Republic of China, I hereby certified that: (A) the reciprocal arrangements made pursuant to article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement; (B) the Government of the People's Republic of China has provided additional information concerning its nuclear nonproliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and (C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request. Pursuant to section 902(a)(6)(B)(i) of Public Law 101-246, I hereby certify that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the material and components for such devices." (Presidential Determination No. 98-10; 63 F.R. 3447).

- (C) release of political prisoners;
 - (D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and
 - (E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or
- (2)^{97, 99} that it is in the national interest of the United States to terminate a suspension under subsection (a) (1), (2), (3), (4), or (5), to terminate a suspension or disapproval under subsection (a)(6), or to terminate the opposition required by subsection (a)(7), as the case may be.
- (c) REPORTING REQUIREMENT.—Sixty days after the date of enactment of this Act, the President shall submit to the Congress a report on—
- (1) any steps taken by the Government of China to achieve the objectives described in subsection (b)(1);
 - (2) the effect of multilateral sanctions on political and economic developments in China and on China's international economic relations;
 - (3) the impact of the President's actions described in section 901(a)(9) and of the suspensions under subsection (a) of this section on—
 - (A) political and economic developments in China;
 - (B) the standard of living of the Chinese people;
 - (C) relations between the United States and China; and
 - (D) the actions taken by China to promote a settlement in Cambodia which will ensure Cambodian independence, facilitate an act of self-determination by the Cambodian people, and prevent the Khmer Rouge from returning to exclusive power;
 - (4) the status of programs and activities suspended under subsection (a); and
 - (5) the additional measures taken by the President under section 901(c) if repression in China deepens.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. INCREASING AMOUNT OF REWARDS FOR COMBATTING TERRORISM * * *

SEC. 1002. ASSIGNMENT OF COMMERCIAL OFFICERS TO THE UNITED STATES MISSION TO THE EUROPEAN COMMUNITY.

Within 90 days of the date of enactment of this Act, the United States Foreign and Commercial Service shall assign to the United States Mission to the European Community in Brussels no less than three commercial officers and such other staff as may be necessary to support such officers.

⁹⁹ On at least two occasions, the President has invoked the authority in sec. 902(b)(2) to terminate the suspensions in sec. 902(a) to issue export licenses for defense articles and U.S. satellites. See: "Statement by Press Secretary Fitzwater on Restrictions on U.S. Satellite Component Exports to China, April 30, 1991" in *Weekly Compilation of Presidential Documents*, v. 27, May 3, 1991, p. 531; and "Termination of Suspensions Under Foreign Relations Authorization Act with Respect to Issuance of Licenses to People's Republic of China—Message From the President of the United States (H. Doc. No. 104-236)," *Congressional Record*, June 24, 1996, p. H6709.

¹⁰⁰ Sec. 1001 amended sec. 36(c) of the State Department Basic Authorities Act of 1956.

SEC. 1003. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY OF STATE.—If the Secretary of State, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary of State is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary of State shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

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

(1) the term “domestic firm” means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term “foreign firm” means a business entity not described in paragraph (1).

(d) APPLICABILITY OF PROVISION.—This section shall apply only to contracts for which—

(1) amounts are authorized to be made available by this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

SEC. 1004. SUPPORT FOR THE BENJAMIN FRANKLIN HOUSE MUSEUM AND LIBRARY.

(a) FINDINGS.—The Congress finds that—

(1) the former London residence of Benjamin Franklin is the only surviving home of Benjamin Franklin existing today and should be preserved to commemorate his great contributions to human liberty, science, and education; and

(2) the Friends of Benjamin Franklin House and the American Franklin Friends Committee are twin charities dedicated to the restoration, preservation, and maintenance of the Benjamin Franklin House as a museum and library open to the public.

(b) POLICY OF SUPPORT.—The Congress hereby—

(1) urges the people of the United States to recognize June 17, 1990, as the bicentennial of Benjamin Franklin’s death and to celebrate Franklin’s long and distinguished public service,

his scientific and literary achievements, and his role as a Founding Father of our country; and

(2) calls on the relevant agencies and departments of the Federal Government of the United States to recognize the important goals of the Friends of Benjamin Franklin House and the American Franklin Friends Committee.

SEC. 1005. ASSOCIATION OF DEMOCRATIC NATIONS.

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

(1) It is the policy of the United States to support and promote democratic values and institutions around the world.

(2) Over the last decade, the United States, in concert with other nations, has provided support to those working for democracy in many nations throughout the world.

(3) Such support has advanced the cause of freedom and democracy in those nations by providing international technical expertise on holding free and fair elections, providing international observers to document the conduct of the elections, and in offering economic and humanitarian support to newly established democracies.

(4) On June 8, 1989, at the commencement ceremonies at Harvard University, the newest leader of a democratic nation, Prime Minister Benazir Bhutto of Pakistan, called for the establishment of an Association of Democratic Nations to support the right of peoples everywhere to choose freely their own government.

(5) The goals of the Association would be to promote—

(A) the holding of elections at regular intervals which are open to the participation of all significant political parties, which are fairly administered, and in which the franchise is broad or universal;

(B) respect for fundamental human rights, including freedom of expression, freedom of conscience, and freedom of association;

(C) international recognition of legitimate elections through international election observer missions at all stages of the election, including the campaign, the voting, and the ballot counting;

(D) the mobilization of international opinion and economic measures against the military overthrow of democratic governments; and

(E) the provision of economic assistance to strengthen and support democratic nations.

(b) POLICY.—It is the sense of the Congress that—

(1) the proposal offered by Prime Minister Benazir Bhutto of Pakistan would further the cause of democracy, freedom, and justice and is in the interest of the United States; and

(2) the President of the United States should give serious consideration to the implementation of the proposal, and should provide not later than 120 days after the date of enactment of this Act,¹⁰¹ a report to the Congress assessing the

¹⁰¹Sec. 320(b)(5) of Public Law 101-302 (104 Stat. 247) struck out “by December 31, 1989” and inserted in lieu thereof “not later than 120 days after the enactment of this Act”.

merits of, and estimated annual costs of, establishing such an Association of Democratic Nations.

SEC. 1006. POLICY REGARDING HUMAN RIGHTS ABUSES IN CUBA.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations Commission on Human Rights in 1989 issued its first report on human rights in Cuba, the result of a year-long investigation that concluded on the 30th year of Fidel Castro's rise to power;

(2) that report extensively documented across-the-board human rights abuses, including cases of torture, missing persons, religious persecution, violations of civil and political rights, and violations of economic and social rights;

(3) the United Nations received 137 complaints of "torture, cruel, inhuman or degrading treatment or punishment";

(4) among the abuses reported to the United Nations were sensory deprivation, immersion in a pit latrine, mock executions, overcrowding in special cells, deafening loudspeakers, keeping prisoners naked in front of relatives, and forcing a prisoner about to be executed to carry his own coffin or dig his own grave;

(5) despite the Cuban Government's statements not to harass those who cooperated with the United Nations' investigation, many Cuban citizens who met, or attempted to meet with the United Nations team suffered reprisals;

(6) at least 26 Cuban human rights monitors and independent activists who were arrested in the aftermath of the United Nations investigation are currently serving prison sentences or being held without trial; and

(7) the United Nations Commission on Human Rights approved a resolution on March 9, 1989, calling on the Government of Cuba to cooperate with the Secretary General of the United Nations in settling unresolved questions of human rights.

(b) STATEMENT OF POLICY.—In the interest of promoting respect for internationally recognized human rights in Cuba, the Congress—

(1) calls on the Secretary General of the United Nations to act upon the resolution approved by the Commission on Human Rights March 9, 1989, calling on the Secretary General to take appropriate action to follow up on the Commission's report on human rights in Cuba; and

(2) calls on the Secretary General to specifically urge the Government of Cuba to release at least 26 persons still being held in detention because of their human rights activities.

SEC. 1007. CONCERNING THE SUBMISSION TO THE CONGRESS OF AGREEMENTS PERTAINING TO THE BOUNDARIES OF THE UNITED STATES.

It is the sense of the Congress that all international agreements pertaining to the international boundaries of the United States should be submitted to the Congress for such consideration as is appropriate pursuant to the respective constitutional responsibilities of the Senate and the House of Representatives.

SEC. 1008. REPORT TO CONGRESS CONCERNING OCEANIA.

Not later than 180 days after the date of the enactment of this Act, and one year thereafter, the Secretary of State shall prepare and submit an unclassified report to the Committee on Foreign Affairs¹⁰² of the House of Representatives and the Committee on Foreign Relations of the Senate which—

- (1) sets forth in detail the policy of the United States with respect to Oceania, which is comprised of Polynesia, Micronesia, and Melanesia;
- (2) examines the nature, extent, and source of political, social, and economic instability affecting states in such region;
- (3) assesses the impact and level of communist influence in Oceania;
- (4) analyzes projections for the total economic growth of such region, with particular emphasis on the exclusive economic zones (EEZ); and
- (5) makes recommendations for specific measures necessary to ensure a strong United States presence in Oceania that contributes to and strengthens democratic institutions and economic growth for the states of the region.

SEC. 1009. REPORT CONCERNING MEXICO.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the relationship between the United States and Mexico. Such report shall—

- (1) analyze potential changes in political, cultural, diplomatic, economic, and other factors as the United States and Mexico move toward greater economic integration and cooperation;
- (2) consider the feasibility and effect of a three-way meeting among Canada, Mexico, and the United States to discuss greater economic integration and cooperation;
- (3) analyze political, cultural, diplomatic, economic, and other factors related to the development of an economically integrated and cooperative border region between Mexico and the United States; and
- (4) evaluate the adequacy of the resources of the Department of State which currently address relations between the United States and Mexico, including a projection of future needs to handle the increasing work load requirements resulting from the growing flow of goods, services, and people across the United States-Mexican border.

SEC. 1010. ESTABLISHMENT OF A LATIN AMERICAN AND CARIBBEAN DATA BASE.

(a) **AUTHORIZATION.**—Of the funds authorized to be appropriated for fiscal year 1990 by section 101(a)(1), \$1,300,000 are authorized to be appropriated to provide continued support for the establishment of a Latin American and Caribbean Data base.

¹⁰²Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(b) **CONDITIONS.**—In developing the data base described in subsection (a), the Secretary of State shall be required to satisfy the following conditions:

(1) Any agreement for an on-line bibliographic data base entered into for purposes of this section shall continue to be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

TITLE XI—BUDGET ACT COMPLIANCE

SEC. 1101. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

(a) **LIMITATION ON SPENDING AUTHORITY.**—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(b) **LIMITATION ON CONTRACT AUTHORITY.**—Any authority provided by this Act to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 1102. WAIVER OF EARMARKS.

Section 101(a)(1) that follows “1991”; 101(c); 102(a)(2); 221(b); 702(a); 702(b) and 704(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (including amendments made thereunder), and section 1204 of the Foreign Service Act of 1980 as amended by section 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; section 505(e)(3) of title V of the United States Information and Educational Exchange Act of 1948, as amended by section 205 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; and section 404(b) of the Asia Foundation Act as amended by section 501 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; are hereby waived during fiscal years 1990 and 1991. So much of the preceding sentence as pertains to the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, shall take effect only on the date of enactment of this Act.

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

Partial text of Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987; as amended by Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102-138 [Foreign Relations Authorization Act for 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-583 [International Narcotics Control Act of 1992, H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103-149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104-208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

SECTION 1.¹ SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1988 and 1989”.

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

¹ 22 U.S.C. 2651 note.

TITLE I—THE DEPARTMENT OF STATE**PART A—AUTHORIZATION OF APPROPRIATIONS;
ALLOCATIONS OF FUNDS; RESTRICTIONS****SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.**

(a) **DIPLOMATIC AND ONGOING OPERATIONS.**—The following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1)² For “Salaries and Expenses” of the Department of State (other than the Diplomatic Security Program), \$1,431,908,000 for the fiscal year 1988 and \$1,460,546,000 for the fiscal year 1989, of which not less than \$250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2)³ For “Acquisition and Maintenance of Buildings Abroad” (other than the Diplomatic Security Program), \$313,124,000 for the fiscal year 1988 and \$319,386,000 for the fiscal year 1989.

(3)⁴ For “Representation Allowances”, \$4,460,000 for the fiscal year 1988 and \$4,549,000 for the fiscal year 1989.

(4)⁵ For “Emergencies in the Diplomatic and Consular Service”, \$4,000,000 for the fiscal year 1988 and \$4,080,000 for the fiscal year 1989.

(5)⁶ For “Payment to the American Institute in Taiwan”, \$9,379,000 for the fiscal year 1988 and \$9,567,000 for the fiscal year 1989.

(b) **DIPLOMATIC SECURITY PROGRAM.**—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the Department of State to carry out the diplomatic security program:

²The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Salaries and Expenses”: \$1,694,000,000. It further stated that none of these funds should be available for the Office of Public Diplomacy for Latin America and the Caribbean.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$1,784,000,000.

³The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Acquisition and Maintenance of Buildings Abroad”: \$313,100,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$240,021,000.

⁴The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Representation Allowances”: \$4,500,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,590,000.

⁵The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Emergencies in the Diplomatic and Consular Service”: \$4,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,500,000.

⁶The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Payment to the American Institute in Taiwan”: \$11,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$10,890,000.

(1) For "Salaries and Expenses", \$350,000,000 for the fiscal year 1988 and \$357,000,000 for the fiscal year 1989.

(2)⁷ For "Protection of Foreign Missions and Officials", \$9,100,000 for the fiscal year 1988 and \$9,282,000 for the fiscal year 1989.

* * * * *

SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a)⁸ INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under "Contributions to International Organizations", \$571,000,000 for the fiscal year 1988 and \$582,420,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1)⁹ \$193,188,000 for the fiscal year 1988 and \$193,188,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the United Nations;

(2)⁹ \$63,857,000 for the fiscal year 1988 and \$63,857,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the World Health Organization;

(3)⁹ \$31,443,000 for the fiscal year 1988 and \$31,443,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4)⁹ \$44,915,000 for the fiscal year 1988 and \$44,915,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization of American States;

(5)⁹ \$38,659,000 for the fiscal year 1988 and \$38,659,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Pan-American Health Organization;

(6)⁹ \$7,849,000 for the fiscal year 1988 and \$7,849,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Civil Aviation Organization;

(7)⁹ \$645,000 for the fiscal year 1988 and \$645,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Maritime Organization;

⁷The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for "Protection of Foreign Missions and Officials": \$9,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$9,100,000.

⁸The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for "Contributions to International Organizations": \$480,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$485,940,000.

⁹In making appropriations for fiscal year 1988, the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329), waived sec. 102(a)(1) through (11). These sections were waived for fiscal year 1989 by title III of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204).

(8)⁹ \$4,471,000 for the fiscal year 1988 and \$4,471,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Telecommunication Union;

(9)⁹ \$25,110,000 for the fiscal year 1988 and \$25,110,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the North Atlantic Treaty Organization;

(10)⁹ \$29,385,000 for the fiscal year 1988 and \$29,385,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization for Economic Cooperation and Development; and

(11)⁹ \$388,000 for the fiscal year 1988 and \$388,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Wheat Council.

(b)¹⁰ INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under “Contributions to International Peacekeeping Activities”, \$29,400,000 for fiscal year 1988 and \$29,988,000 for the fiscal year 1989¹¹ in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c)¹² INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under “International Conferences and Contingencies”, \$6,000,000 for fiscal year 1988 and \$6,120,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies, of which amount such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the

¹⁰The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Peacekeeping Activities”: \$29,400,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$29,000,000.

¹¹Title II, sec. 1, of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 119), provided the following:

“In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed \$125,000,000 to the ‘Contributions for International Peacekeeping Activities’ account or the ‘Peacekeeping Operations’ account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.”

For full text of conditions for any transfers, see 103 Stat. 97.

¹²The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Conferences and Contingencies”: \$6,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$6,000,000.

conduct of the foreign affairs of the United States with respect to international commissions:

(1)¹³ For “International Boundary and Water Commission, United States and Mexico”, \$14,700,000 for the fiscal year 1988 and \$14,994,000 for the fiscal year 1989.

(2)¹⁴ For “International Boundary Commission, United States and Canada”, \$721,000 for the fiscal year 1988 and \$735,000 for the fiscal year 1989.

(3)¹⁴ For “International Joint Commission”, \$2,979,000 for the fiscal year 1988 and \$3,039,000 for the fiscal year 1989.

(4)¹⁵ For “International Fisheries Commissions”, \$10,800,000 for the fiscal year 1988 and \$11,016,000 for the fiscal year 1989.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a)¹⁶ AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under “Migration and Refugee Assistance”, \$336,750,000 for the fiscal year 1988 and \$343,485,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)—

(1) \$25,000,000 for the fiscal year 1988 and \$25,000,000 for the fiscal year 1989 shall be available only for assistance for refugees resettling in Israel; and

(2) \$5,000,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989 shall be available only for the United Nations High Commissioner for Refugees and other international relief organizations for the protection of, and improvements in educational, nutritional, and medical assistance for, the Indo-chinese refugees in Thailand, of which \$1,000,000 for the fiscal

¹³The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Boundary and Water Commission, United States and Mexico”: salaries and expenses—\$10,261,000; construction—\$3,166,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided for salaries and expenses—\$10,261,000; construction—\$3,166,000.

¹⁴The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for the “International Joint Commission” and the “International Boundary Commission”: \$4,316,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,316,000.

¹⁵The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Fisheries Commissions”: \$10,548,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$10,548,000.

¹⁶The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 (sec. 101(e), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Migration and Refugee Assistance”: \$346,450,000, earmarked for several specific programs. The Dire Emergency Supplemental Appropriations Act, 1988 (Public Law 100-393; 102 Stat. 973), provided \$24,000,000 for the “United States Emergency Migration and Refugee Assistance Fund”, not less than \$6,000,000 of which was earmarked for Soviet and other Eastern European refugees.

The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268-14), provided \$361,950,000 for “Migration and Refugee Assistance”, earmarked for several specific programs, and provided \$50,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”, not less than \$23,000,000 of which was earmarked for Afghan refugees.

year 1988 and \$1,000,000 for the fiscal year 1989 shall be used only for such educational purposes.

SEC. 105.¹⁷ OTHER PROGRAMS.

There are authorized to be appropriated to the Department of State for the following programs:

(1)¹⁸ “Bilateral Science and Technology Agreements”, \$1,900,000 for the fiscal year 1988 and \$1,938,000 for the fiscal year 1989.

(2)¹⁹ “Soviet-East European Research and Training”, \$4,600,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989.

SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

If the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount and a provision of this Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

SEC. 107. TRANSFER OF FUNDS.

(a) TRANSFERS FOR SALARIES AND EXPENSES.—The Secretary of State may transfer, without regard to section 1502 of title 31, United States Code, to the “Salaries and Expenses” account of the Department of State amounts appropriated for any fiscal year prior to fiscal year 1989 under “Acquisition and Maintenance of Buildings Abroad” which are allocated for capital programs. Any transfer under this subsection shall be treated as a reprogramming for purposes of section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(b) LIMITATIONS.—

(1) Subsection (a) shall not apply to amounts appropriated for purposes of the diplomatic security program under section 401(a) of the Diplomatic Security Act (22 U.S.C. 4851).

(2) The aggregate of—

(A) the amounts transferred under this section for a fiscal year, and

(B) the amounts appropriated for “Salaries and Expenses” for that fiscal year,

may not exceed the amount authorized to be appropriated for “Salaries and Expenses” for that fiscal year.

¹⁷The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,700,000; and for the “Fishermen’s Guaranty Fund”: \$1,725,000.

¹⁸The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Bilateral Science and Technology Agreements”: \$1,900,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$2,000,000.

¹⁹The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Soviet-East European Research and Training”: \$4,600,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,600,000.

(3) The authority contained in subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 108. COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT ON DEFICIT REDUCTION.

Notwithstanding the specific authorizations of appropriations contained in this Act, budget authority may not be provided pursuant to those authorizations in an amount which would cause the aggregate amount of discretionary budget authority provided for international affairs (budget function 150) for a fiscal year to exceed the amount of discretionary budget authority for international affairs for that fiscal year as specified in laws implementing the agreement between the President and the joint Congressional leadership on November 20, 1987.

SEC. 109. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.

No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

- (1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;
- (2) to influence in any way the outcome of a political election in the United States; or
- (3) for any publicity or propaganda purposes not authorized by Congress.

SEC. 110.²⁰ LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) **AUTHORIZATION.**—The Secretary of State, in consultation with the heads of appropriate departments and agencies of the United States, shall use not less than \$1,300,000 of the funds authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 101(a)(1) of this Act to provide for the establishment of a Latin American and Caribbean Data Base.

(b) **CONDITIONS.**—In developing these data bases the Secretary of State shall be required to satisfy the following conditions:

- (1) Any new agreement for an on-line bibliographic data base entered into for purposes of this section shall be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.
- (2) The Secretary shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

* * * * *

²⁰ In appropriating funds for "Salaries and Expenses", the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329), and the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), waived sec. 110 for fiscal years 1988 and 1989.

SEC. 122.²¹ * * * [Repealed—1991]

SEC. 123.²² * * * [Repealed—1990]

SEC. 124.²³ REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs²⁴ and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for “Emergencies in the Diplomatic and Consular Service” for that quarter. Items included in each such report concerning representation, official travel, and gifts shall be submitted in unclassified form.²⁵

* * * * *

SEC. 127.²⁶ * * *

SEC. 128. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a)²⁷ * * *

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

SEC. 129. ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD.

In order to provide for full reimbursement of shared administrative costs at United States missions abroad, the Secretary of State shall review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for

²¹ Formerly at 22 U.S.C. 2656 note. Sec. 122, relating to consular and diplomatic posts abroad, was repealed by sec. 112(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655).

²² Sec. 123, relating to the closing of diplomatic and consular posts in Antigua and Barbuda, was repealed by sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27).

²³ 22 U.S.C. 2680 note. Sec. 209(e)(6) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided that reports required under this section are excluded from the application of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66; 31 U.S.C. 1113 note).

²⁴ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁵ Sec. 114 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), added the last sentence.

²⁶ Sec. 127 amended sec. 116(d) and 502B(b) of the Foreign Assistance Act of 1961 to require the inclusion of coercive population control information in the annual human rights report.

²⁷ Sec. 128(a) added a new sec. 215 to the State Basic Authorities Act of 1956.

shared administrative costs at United States missions abroad. Within 3 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Affairs²⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and any revision.

SEC. 130.²⁸ PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this title may be obligated or expended for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank.

SEC. 131. PURCHASING AND LEASING OF RESIDENCES.

It is the sense of the Congress that in its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²⁴ of the House of Representatives, the Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing residential properties to enable the Congress to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

SEC. 132.²⁹ PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE

The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

SEC. 133.³⁰ UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION.

(a) FINDING.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(b) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 134.³¹ * * *

* * * * *

²⁸Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2208), waived sec. 414 of the Diplomatic Security Act, and provided the following:

“such funds * * * may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United states policy; (B) shall not be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.”.

²⁹22 U.S.C. 2697 note.

³⁰22 U.S.C. 4301 note.

³¹Sec. 134 repealed subsec. 413(b) of the Diplomatic Security Act (Public Law 99-399; 100 Stat. 853) which had established an Office of Policy and Program Review in the Department of State.

SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.

(a) **STUDY.**—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to \$1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to \$1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

(b) **REPORT.**—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

(c) CONGRESS.—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee

on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs²⁴ of the House of Representatives.

SEC. 138.³² FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.

(a) PERIOD OF LIABILITY.—Section 1364 of title 28, United States Code, is amended by inserting after “who is” the following: “, or was at the time of the tortious act or omission.”

(b)³³ APPLICATION.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

SEC. 139. ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS.

(a) RESTRICTION ON USE OF FUNDS.—If any international agreement, whose text is required to be transmitted to the Congress pursuant to the first sentence of subsection (a) of section 112b of title 1, United States Code (commonly referred to as the “Case-Zablocki Act”), is not so transmitted within the 60-day period specified in that sentence, then no funds authorized to be appropriated by this or any other Act shall be available after the end of that 60-day period to implement that agreement until the text of that agreement has been so transmitted.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of this Act and shall apply during fiscal years 1988 and 1989.

SEC. 140.³⁴ ANNUAL COUNTRY REPORTS ON TERRORISM.

(a) REQUIREMENT OF ANNUAL COUNTRY REPORTS ON TERRORISM.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by April 30³⁵ of each year, a full and complete report providing—

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

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

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

³²The amended part of sec. 1364 of title 28, U.S.C., read as follows (with new language in brackets):

“(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is [or was at the time of the tortious act or omission] a member of a mission (within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.”

³³28 U.S.C. 1364 note.

³⁴22 U.S.C. 2656f. See also sec. 805 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), requiring reports on terrorist activity in which U.S. citizens were killed.

³⁵Sec. 122 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27), struck out “March 31” and inserted in lieu thereof “April 30”.

- (C) which the Secretary determines should be the subject of such report;³⁶
- (2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, and any other known international terrorist group which the Secretary determines should be the subject of such report;³⁶
- (3)³⁶ with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—
- (A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing the individual or individuals responsible for the act; and
- (B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and
- (4)³⁶ with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).
- (b) PROVISIONS TO BE INCLUDED IN REPORT.—The report required under subsection (a) should to the extent feasible include (but not be limited to)—
- (1) with respect to subsection (a)(1)—
- (A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;
- (B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and
- (C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—
- (i) political and financial support;
- (ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

³⁶Sec. 578(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), struck out “and” at the end of para. (1), struck out a period at the end of para. (2) and inserted instead a semicolon, and added new paras. (3) and (4).

- (iii) providing sanctuary to terrorists or terrorist groups; and
 - (iv) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report; and
- (2) with respect to subsection (a)(2), any—
- (A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;
 - (B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;
 - (C) provision of diplomatic recognition or privileges by foreign governments to those groups;³⁷
 - (D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism; and³⁷
 - (E)³⁷ efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities.
- (c) CLASSIFICATION OF REPORT.—
- (1) Except as provided in paragraph (2),³⁸ the report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.
 - (2)³⁹ If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form.
- (d) DEFINITIONS.—As used in this section—
- (1) the term “international terrorism” means terrorism involving citizens or the territory of more than 1 country;
 - (2) the term “terrorism” means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and
 - (3) the term “terrorist group” means any group practicing, or which has significant subgroups which practice, international terrorism.
- (e) REPORTING PERIOD.—

³⁷ Sec. 133(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 395), struck out “and” at the end of para. (C); struck out a period at the end of para. (D), and inserted in lieu thereof “; and”; and added a new para. (E).

³⁸ Sec. 578(2)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), struck out “The report” in subsec. (c) and inserted in lieu thereof “(1) Except as provided in paragraph (2), the report”. Sec. 578(2)(B) of that Act also indented para. (1).

³⁹ Sec. 578(2)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), added para. (2).

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

SEC. 141. RESTRICTION ON USE OF FUNDS FOR PUBLIC DIPLOMACY EFFORTS.

(a) **IN GENERAL.**—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Department of State may be used by the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, District of Columbia, or any other location within the United States;

(2) providing contact with any refugee group or exile in Washington, District of Columbia, or elsewhere in the United States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(2) During fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Department of State if the Committee on Foreign Affairs⁴⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate are notified not less than 15 days in advance of the proposed contract.

(c) LIMITATION ON USE OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act, not more than \$389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

SEC. 142. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.

(a)⁴¹ * * *

(b)⁴² AUTHORITY TO ACCEPT REIMBURSEMENTS.—The Department of State Appropriation Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) is amended under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting after the fourth undesignated paragraph the following new paragraph: * * *

⁴⁰ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁴¹ Sec. 142(a) amended sec. 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621).

⁴² 22 U.S.C. 2661. The Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661), as amended, provides as follows:

“On and after May 15, 1936, whenever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized; and reimbursement therefor shall be required from those for whom the information was procured and, when made, be credited to the appropriation under which the expenditure was charged.

“The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses (including such expenses as salaries and other personnel expenses) incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.”

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

SECS. 151-153.⁴³ * * * [Repealed—1993]

SEC. 154.⁴⁴ * * * [Repealed—1993]

SEC. 155.⁴⁵ **PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES.**

(a) **SPECIAL SECURITY PROGRAM.**—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act, a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

- (1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;
- (2) counterintelligence awareness and related training;
- (3) security reporting and command arrangements designed to counter intelligence threats; and
- (4) length of duty criteria and policies regarding rest and recuperative absences.

(b) **REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this subsection, the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

(c) **DEFINITION.**—As used in subsection (a), the term “high intelligence threat country” means—

- (1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961; and
- (2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.

* * * * *

SEC. 157.⁴⁶ **PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.**

(a) **PROHIBITION.**—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

⁴³ Sec. 502(e)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed secs. 151 through 153, relating to the U.S.-Soviet embassy agreement on use of the Mt. Alto site for the Soviet Embassy in the United States and use of the U.S. Embassy in Moscow.

Sec. 139(15) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), subsequently repealed sec. 153(d), which already had been repealed by Public Law 103-199.

Sec. 151 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202).

⁴⁴ Sec. 501(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2325) repealed sec. 154, which had required a report on personnel levels of Soviet state trading enterprises in the United States.

⁴⁵ 22 U.S.C. 4802 note.

⁴⁶ 22 U.S.C. 3943 note.

(b) DEFINITION.—As used in this section, the term “Communist country” means a country listed in section 620(f) of the Foreign Assistance Act of 1961.

(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State’s authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

(1) a report, which shall include—

(A) a feasibility study of the implementation of this section; and

(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

(e) WAIVER.—The President may waive this section—

(1) if funds are not specifically authorized and appropriated to carry out this section; or

(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section.

SEC. 158.⁴⁷ TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.

(a) TERMINATION.—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

(b) WAIVER.—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.

SEC. 159. REPORT ON EMPLOYMENT OF FOREIGN NATIONALS AT FOREIGN SERVICE POSTS ABROAD.

Not later than 6 months after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Agriculture, the Director of Central Intelligence, the Director of the United States Information Agency, and the Director of the Peace Corps, shall submit to the Congress a re-

⁴⁷ 22 U.S.C. 4041 note.

port discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

SEC. 160.⁴⁸ CONSTRUCTION SECURITY CERTIFICATION.

(a) **CERTIFICATION.**—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, or approving occupancy of a similar facility for which construction or major renovation began before the effective date of this section,⁴⁹ the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs⁴⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed);⁵⁰

(2) the facility resulting from such project incorporates—

(A) adequate measures for protecting classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility; and⁵⁰

(3)⁵⁰ a plan has been put into place for the continued evaluation and maintenance of adequate security at such facility, which plan shall specify the physical security methods and technical countermeasures necessary to ensure secure operations, including any personnel requirements for such purposes.

(b) **AVAILABILITY OF DOCUMENTATION.**—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs⁴⁰ of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

(c) **DIRECTOR OF CENTRAL INTELLIGENCE.**—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

(d) **DISSENTING VIEWS.**—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State.

⁴⁸ 22 U.S.C. 4851 note.

⁴⁹ Sec. 135(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 33), added text beginning with “or approving occupancy”.

⁵⁰ Sec. 128(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 30), struck out “and” at the end of par. (1); added “and” at the end of par. (2); and added a new par. (3).

SEC. 161.⁵¹ * * ***SEC. 162. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.**(a)⁵² * * *

(b) **EFFECTIVE DATE.**—Subsection (a) of the section enacted by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 163. COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL.

(a) **IMPLEMENTATION OF PROGRAM.**—Under the regulations issued pursuant to subsection (b), the Secretary of State shall implement a program of counterintelligence polygraph examinations for members of the Diplomatic Security Service (established pursuant to title II of the Diplomatic Security Act) during fiscal years 1988 and 1989.

(b) **REGULATIONS.**—The Secretary of State shall issue regulations to govern the program required by subsection (a). Such regulations shall provide that the scope of the examinations under such program, the conduct of such examinations, and the rights of individuals subject to such examinations shall be the same as those under the counterintelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 164. UNITED STATES EMBASSY IN HUNGARY.(a) **FINDINGS.**—The Congress finds that—

(1) the full implementation of the security program of a United States diplomatic mission to a Communist country cannot be accomplished if employees of that mission who are citizens of the host country are present in the same facilities where diplomatic and consular activities of a sensitive nature are performed;

(2) the facilities currently housing the offices of the United States diplomatic mission to Hungary are totally inadequate for the proper conduct of United States diplomatic activities, and unnecessarily expose United States personnel and their activities to the scrutiny of the intelligence services of the Government of Hungary;

(3) the presence of local citizens in a facility where sensitive activities are performed, as well as their access to certain unclassified administrative information, greatly enhances the ability of the host government's intelligence services to restrict our diplomatic activities in that country;

(4) since the United States Government owns a substantial amount of property in Budapest, it is in a unique position to build new facilities which will substantially enhance the security of the United States diplomatic mission to Hungary; and

⁵¹Sec. 161 added a new subsec. (d) at sec. 205 of the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890). It prohibited the acquisition of real property in the United States by certain foreign countries if it is determined that such acquisition would improve capabilities for hostile intelligence activities against the United States.

⁵²Subsec. (a) added a new sec. 216 to the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890). It applied to individuals of certain countries and organizations the same generally applicable restrictions to travel while in the United States that apply to members of the missions of the Soviet Union in the United States.

- (5) units such as the Navy Construction Battalion are uniquely qualified to construct such facilities in an eastern bloc country.
- (b) STATEMENT OF POLICY.—It is the sense of the Congress that—
- (1) the Department of State should proceed in a timely fashion to negotiate an agreement with the Government of Hungary to allow for the construction of new chancery facilities in Budapest which would totally segregate sensitive activities from those of an unclassified and public-oriented character; and
 - (2) any such agreement should ensure that the United States Government will have the right to employ only American construction personnel and materials and will have complete control over access to the chancery site from the inception of construction.

PART D—PERSONNEL MATTERS

SEC. 171.⁵³ COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.

In consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs⁴⁰ and the Committee on Post Office and Civil Service of the House of Representatives, and the exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980), the Secretary shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service. Not more than 1 year after the date of enactment of this Act, the Commission shall transmit its report and recommendations to the Secretary of State, the Chairman of the Committee on Foreign Relations of the Senate, the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Post Office and Civil Service of the House of Representatives.⁵⁴

SEC. 172.⁵⁵ PROTECTION OF CIVIL SERVICE EMPLOYEES.

- (a) FINDINGS.—The Congress finds that—
- (1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;
 - (2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhance-

⁵³ See also sec. 150 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 671).

⁵⁴ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

⁵⁵ 22 U.S.C. 2664a.

ment opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) **EQUITABLE REDUCTION OF BUDGET.**—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) **ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR CIVIL SERVICE EMPLOYEES.**—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5, United States Code) in existence on the date of enactment of this Act.

(d) **DEFINITION.**—For purposes of this section, the term "Civil Service employees" means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980).

SEC. 173. COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS.

(a)⁵⁶ * * *

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) **BUDGET ACT.**—Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 174. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.

The Comptroller General of the United States shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than one year after the date of enactment of this Act, as to any improvements in the merit personnel system that the Comptroller General considers necessary. The report of the Comptroller General shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

⁵⁶Sec. 173(a) amended secs. 35(b) and 203(a) of the State Department Basic Authorities Act of 1956 (Public Law 84-885).

SEC. 175.⁵⁷ PERFORMANCE PAY.**(a) REVIEW OF PERFORMANCE PAY PROGRAMS.—**

(1) **SUSPENSION OF AWARDS DURING REVIEW.**—During the period beginning on the date of enactment of this Act, and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

(2) **REVIEW BY INSPECTOR GENERAL.**—The Inspector General of the Department of State shall conduct a complete and thorough review of—

(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards.

The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

(3) **REPORT BY SECRETARY OF STATE.**—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.

* * * * *

SEC. 177. CHIEF OF MISSIONS SALARY.

(a) ⁵⁸ * * *

(b) ⁵⁹ * * *

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of the enactment of this Act during the period such individual continues to serve in such position.

SEC. 178. PAY LEVEL OF AMBASSADORS AT LARGE.

(a) ⁶⁰ **COMPENSATION.**—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out “Ambassadors at Large.”; and

(2) in section 5315, by adding at the end thereof the following: “Ambassadors at Large.”.

⁵⁷ 22 U.S.C. 3965 note.

⁵⁸ Sec. 177(a) amended sec. 401(a) of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 3961(a)).

⁵⁹ Sec. 177(b) amended sec. 302(b) of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 3942(b)).

⁶⁰ Subsec. (a) moved the post of “Ambassador at Large” from a Level II to a Level IV on the Executive Schedule.

(b) **EFFECTIVE DATE AND LIMITATION.**—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.

SEC. 179. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.

(a)⁶¹ * * *

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to tax years beginning after December 31, 1987.

SEC. 180. PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE.

It is the sense of Congress that the Secretary of State should take steps to assure that in labor-management negotiations between the Department of State and the exclusive representative of the Foreign Service employees of the Department, those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

SEC. 181. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.

* * * * *

(e) **APPLICATION.**—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act.

* * * * *

SEC. 183.⁶² WOMEN AND MINORITIES IN THE FOREIGN SERVICE.

(a) **FINDINGS.**—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

(b) **A MORE REPRESENTATIVE FOREIGN SERVICE.**—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Re-

⁶¹ Subsec. (a) amended sec. 301(d)(3) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2071). It prohibited career foreign service employees from representing themselves to income tax authorities of the District of Columbia or any other State as exempt from income taxation.

⁶² 22 U.S.C. 3922a note. See also sec. 2318 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-829), requiring reports on minorities and the Foreign Service officer corps.

lations Authorization Act, Fiscal Years 1986 and 1987, so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

(c) DEPARTMENT OF STATE HIRING PRACTICES OF MINORITIES AND WOMEN.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980—

(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State.

SEC. 184. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.

(a) COMPLIANCE WITH PRIOR REQUEST.—Within 90 days after the date of enactment of this Act, the Secretary of State shall submit to the chairmen and ranking members of the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate, and the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on Government Operations of the House of Representatives,⁶³ a report complying with the 1984 request of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include an unclassified tabulation, as of the 1984 request, of the following:

(1) All Foreign Service officer positions then occupied by non-career appointees.

(2) All positions in the Senior Foreign Service subject to non-career appointment.

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) COMPLIANCE WITH FUTURE REQUESTS.—Whenever the Committee on Governmental Affairs of the Senate or the Committee on Post Office and Civil Service⁶⁴ of the House of Representatives requests information from the Secretary of State for inclusion in the

⁶³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(6) of that Act provided that references to the Committee on Government Operations shall be treated as referring to the Committee on Government Reform and Oversight. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

⁶⁴Sec. 1(b)(2) of Public Law 104-14 (109 Stat. 186) provided that most references to the Committee on Post Office and Civil Service of the House of Representatives, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives.

publication “U.S. Government Policy and Supporting Positions”, the Secretary shall provide such information in a timely manner.

* * * * *

SEC. 186. DISPOSITION OF PERSONAL PROPERTY ABROAD.

(a)⁶⁵ * * *

(b) **EFFECTIVE DATE.**—This section shall take effect 180 days after the date of enactment of this Act.

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SEC. 188.⁶⁶ * * *

TITLE II—THE UNITED STATES INFORMATION AGENCY⁶⁷

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TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS⁶⁸

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TITLE IV—VOICE OF AMERICA⁶⁹

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TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING⁷⁰

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TITLE VI—ASIA FOUNDATION⁷¹

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TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

SEC. 701.⁷² **PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.**

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

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

⁶⁵ Subsec. (a) added a new title III to the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890).

⁶⁶ Sec. 188 added new secs. 830, 831 and 832 to the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat., 2071) concerning benefits for certain former spouses of members of the foreign service.

⁶⁷ See page 1299 for text of free-standing provisions in this title.

⁶⁸ See page 1303 for text of free-standing provisions in this title.

⁶⁹ See page 1305 for text of free-standing provisions in this title.

⁷⁰ Most of title V contained amendments to the Board for International Broadcasting Act of 1973. For text of free-standing provisions, see page 1509.

⁷¹ Title VI amended sec. 404 of the Asia Foundation Act (Public Law 98-164).

⁷² 22 U.S.C. 287e note.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b)⁷³ SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Na-

⁷³Sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), struck out subsec. (b), and redesignated subsecs. (c) and (d) as (b) and (c), respectively. Subsec. (b) had required the Secretary of State to report annually to the Congress on the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

tions Charter to which every other member-nation must adhere.

(c)⁷³ DEFINITION.—For the purposes of this section, the term “Soviet-bloc” means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

SEC. 702. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) FINDINGS.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note, 99 Stat. 405), as in effect before the date of enactment of this Act.⁷⁴

(b) * * *

(c) * * *

(d) TERMINATION DATE.—This section shall terminate on September 30, 1989.

SEC. 703. HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS.

(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to deduct from the pay (commonly referred to as a “rental deduction”) of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a).

SEC. 704.⁷⁵ * * *

SEC. 705.⁷⁶ * * *

SEC. 706. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.

(a) FINDINGS.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain infor-

⁷⁴Sec. 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, was repealed in 1991 by sec. 162(e) of Public Law 102-138 (105 Stat. 676).

⁷⁵Sec. 704 amended sec. 115(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1017). It suspended United States participation in any organ of the United Nations, with the exception of the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency, that illegally expels, suspends or denies credentials to Israel.

⁷⁶Sec. 705 amended sec. 114(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1017). It limited the United States assessed contribution to the United Nations to the amount assessed less 25 percent of the amount budgeted for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

mation valuable to our knowledge of the genocidal actions of the Nazis.

(b) **POLICY.**—It is the sense of the Congress that United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations.

* * * * *

SEC. 708.⁷⁷ PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.

(a) **FINDINGS.**—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

(b) **EXTENSION OF MANDATE OF UNIFIL.**—The Secretary of State should request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 721.⁷⁸ ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this part referred to as the “Commission”) is hereby established.

SEC. 722.⁷⁸ PURPOSES OF THE COMMISSION.

(a) **PURPOSES.**—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) **CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.**—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and

⁷⁷Sec. 139(19) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (c) of this section, which had required that the Secretary of State report to the chairpersons of the Committees on Foreign Affairs and Foreign Relations on progress in implementing this section.

⁷⁸22 U.S.C. 287 note.

private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 723.⁷⁸ MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

(D) Four individuals appointed by the President, not more than two of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than 60 days after the effective date of this part.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government

service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) **CHAIRMAN AND VICE CHAIRMAN.**—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) **QUORUM.**—Nine members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 724.⁷⁸ POWERS OF THE COMMISSION.

(a) **IN GENERAL.**—For the purpose of carrying out this part, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 722.

(b) **MEETINGS.**—

(1) **MINIMUM NUMBER OF PUBLIC HEARINGS.**—The Commission shall hold a minimum of five public hearings.

(2) **OPEN MEETINGS.**—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) **CALLING MEETINGS.**—The Commission shall meet at the call of the Chairman or a majority of its members.

(c) **DELEGATION OF AUTHORITY.**—When so authorized by the majority of the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this part. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law; except that the head of any Federal agency to which a request for information is provided pursuant to this subsection may deny access to such information, or make access subject to such terms and conditions as the head of that agency may prescribe, on the basis that the information in question is classified and the Commission does not have adequate procedures to safeguard the information in question, or that the Commission does not have a need to know the classified information. In addition, a Federal agency may not provide the Commission with information that could disclose intelligence sources or methods without first securing the approval of the Director of Central Intelligence. The head of any such Federal agency may provide information on a reimbursable basis.

SEC. 725.⁷⁸ STAFF.

(a) **STAFF MEMBERS AND CONSULTANTS.**—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) **DETAILING OF GOVERNMENT PERSONNEL.**—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this part.

SEC. 726.⁷⁸ REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than 18 months after the date on which all members of the Commission have been appointed.

SEC. 727.⁷⁸ FUNDING FOR THE COMMISSION.

(a) **COMMISSION TO BE PRIVATELY FUNDED.**—The Commission may accept and use contributions from private United States sources to carry out this part. No Federal funds may be made available to the Commission for use in carrying out this part.

(b) **LIMITATION ON SIZE OF CONTRIBUTIONS.**—The Commission may not accept contributions from any single source which have a value of more than ⁷⁹ the greater of—

(1) \$100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) **COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.**—The Commission may accept contributions having a value of \$1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) **DISCLOSURE OF CONTRIBUTIONS.**—

(1) **PERIODIC REPORTS TO CONGRESS.**—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs⁸⁰ of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days.

(2) **FINAL REPORT.**—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726.

(e) **LIMITATION ON OBLIGATIONS AND EXPENDITURES.**—Notwithstanding subsection (a), the limitations on expenditures and obliga-

⁷⁹Sec. 409 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 68), inserted “the greater of” after “than”.

⁸⁰Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

tions in section 1341 of title 31, United States Code, shall apply to the Commission.

SEC. 728.⁷⁸ GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 729.⁷⁸ TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 60 days after submitting its report pursuant to section 726.

SEC. 730.⁷⁸ EFFECTIVE DATE.

This part shall take effect on March 1, 1989.

PART C—OTHER INTERNATIONAL ORGANIZATIONS

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SEC. 742. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID.

(a) **UNITED STATES CONTRIBUTION.**—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget.⁸¹ Such contribution may be made from the funds authorized to be appropriated by section 104 for “Migration and Refugee Assistance”.

(b) **LIMITATION ON CONTRIBUTIONS.**—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(c) **RECOGNITION OF THE RED SHIELD OF DAVID.**—It is the sense of the Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel should be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

⁸¹Sec. 410 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 68), provided the following:

“Notwithstanding section 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204), for each of the fiscal years 1990 and 1991, the Secretary of State shall not be required to make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is greater than 10 percent of the 1989 regular budget of the International Committee of the Red Cross.”

SEC. 743.⁸² * * *

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SEC. 745.⁸³ * * * [Repealed—1994]**SEC. 746. RECOGNITION OF CARICOM.**

It is the sense of the Congress that the Secretary of State should consider recognizing the Caribbean Community and Common Market (CARICOM) as a regional planning organization in the Caribbean.

SEC. 747. ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress which—

- (1) examines the nature and extent of human rights problems in the Asian-Pacific region; and
- (2) assesses the willingness of the countries in the region to negotiate a regional human rights convention similar to the American Convention on Human Rights, the Conference on Security and Cooperation in Europe, and the African Charter on Peoples' and Human Rights.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL⁸⁴**SEC. 801. ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.**

If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission.

* * * * *

SEC. 803. REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF UNITED STATES MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES.

The Secretary of State shall ensure that the Country Plan for the United States diplomatic mission in each major illicit drug producing country and in each major drug-transit country (as those terms are defined in section 481(e)⁸⁵ of the Foreign Assistance Act of 1961) includes, as an objective to be pursued by the mission—

- (1) negotiating an updated extradition treaty which ensures that drug traffickers can be extradited to the United States, or

⁸²Sec. 743 amended the International Organizations Immunities Act (Public Law 79-291; 59 Stat. 669) to recognize the International Committee of the Red Cross as an international organization.

⁸³Sec. 745, authorizing continued membership in the Intergovernmental Committee for European Migration, was repealed by sec. 430(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459).

⁸⁴22 U.S.C. 2656 note. For other legislation on international narcotics control, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

⁸⁵Formerly read "481(i)". Sec. 6(a) of the International Narcotics Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that any reference in any provision of law enacted before November 2, 1992, to section 481(i) shall be deemed to be a reference to section 481(e). The text has been so amended.

(2) if an existing treaty provides for such extradition, taking such steps as may be necessary to ensure that the treaty is effectively implemented.

SEC. 804. INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on the status of the comprehensive information system on drug arrests of foreign nationals which was required to be established by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

* * * * *

SEC. 806. SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

* * * * *

(c) ALIENS EXCLUDABLE FROM ADMISSION TO THE UNITED STATES.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended to read as follows:

“(23) Any alien who—

“(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;”.

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

SEC. 901.⁸⁶ PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS. * * * [Repealed—1990]

SEC. 902.⁸⁷ ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.

(a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) “extended voluntary departure” by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

⁸⁶Sec. 603(a)(21) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5084) repealed sec. 901, which had prohibited exclusion or deportation of aliens on grounds of beliefs, statements or associations, if such beliefs, statements, or associations would be protected under the Constitution of the United States if engaged in by a U.S. citizen. Subsec. (d) of sec. 901 had been repealed by sec. 128(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 30).

⁸⁷8 U.S.C. 1255a note.

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

SEC. 903.⁸⁸ PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.

(a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(d)⁸⁹ of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “process” means the acceptance and review of applications and the preparation of necessary documents and

⁸⁸ 8 U.S.C. 1201 note.

⁸⁹ Sec. 308(g)(7)(C)(iii) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009) struck out “243(g)” and inserted in lieu thereof “243(d)”.

the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

SEC. 904.⁹⁰ INDOCHINESE REFUGEE RESETTLEMENT.

(a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

⁹⁰ Legislation nearly identical to sec. 904 was enacted as secs. 801 to 803 of the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, Continuing Appropriations Act for 1988; Public Law 100-202).

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admis-

sions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

(d) REPORTING.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 905.⁹¹ AMERASIAN CHILDREN IN VIETNAM.

(a) FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

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

⁹¹Subsec. (a), paragraphs (1) through (5), were also enacted as sec. 804 of the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, of the Continuing Appropriations for 1988; Public Law 100-202).

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as “displaced persons” or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975–1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee

of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 907. RELEASE OF YANG WEI.

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

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) POLICY.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

TITLE X—ANTI-TERRORISM ACT OF 1987⁹²

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TITLE XI—GLOBAL CLIMATE PROTECTION⁹³

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TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS**PART A—SOVIET UNION AND EASTERN EUROPE****SEC. 1201.**⁹⁴ * * * [Repealed—1993]**SEC. 1202.**⁹⁵ * * * [Repealed—1993]**SEC. 1203.**⁹⁶ * * * [Repealed—1993]**SEC. 1204.**⁹⁷ **STATE SPONSORED HARASSMENT OF RELIGIOUS GROUPS.**

It is the sense of the Congress that—

(1) the President should continue to express to the government of any country that engages in the harassment of religious groups⁹⁸ the deep concern and opposition of the United States with respect to such activities;⁹⁹

(2) the governments of all¹⁰⁰ countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and¹⁰¹

SEC. 1205. OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.

The Congress deplors activities of the Government of the Socialist Republic of Romania restricting the internationally recognized

⁹²The text of title X, cited as the “Anti-Terrorism Act of 1987”, may be found at page 986.⁹³The text of title XI, cited as the “Global Climate Protection Act of 1987”, may be found in *Legislation on Foreign Relations Through 2001*, vol. IV, sec. L.⁹⁴Sec. 901 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out sec. 1201, relating to Soviet ballistic missile tests near Hawaii.⁹⁵Sec. 1202, expressing the sense of the Congress regarding emigration of Jews and others who wish to emigrate from the Soviet Union, was repealed by sec. 903(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330).⁹⁶Sec. 1203, expressing the sense of the Congress regarding the systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, was repealed by sec. 902 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330).⁹⁷Sec. 903(a)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) restated the section heading. It formerly read: “UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.”⁹⁸Sec. 903(a)(2)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out “governments of the Union of Soviet Socialist Republics and Eastern European countries” and inserted in lieu thereof “government of any country that engages in the harassment of religious groups”.⁹⁹Sec. 903(a)(2)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out “to the harassment of Christians and other religious believers” and inserted in lieu thereof “to such activities”.¹⁰⁰Sec. 903(a)(3) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out “the Union of Soviet Socialist Republics and Eastern European” and inserted in lieu thereof “all”.¹⁰¹Sec. 903(a)(4) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out para. (3) following this point, which had provided:

“(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.”

human rights of Hungarians and other nationalities in Transylvania and elsewhere in Romania.

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

- (1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence¹⁰² should be recognized; and
- (2) the President should—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) call attention to violations of internationally recognized human rights in the Baltic States; and

(C) promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act of the Conference on Security and Cooperation in Europe in the Baltic States.

SEC. 1207. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.

(a) **SUPPORT FOR SOLIDARITY.**—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(b) **ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.**—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal year 1988, not less than \$1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

PART B—LATIN AMERICA AND CUBA

SEC. 1211. CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA.

(a) **FINDINGS.**—The Congress finds that—

(1) the Universal Declaration of Human Rights, which was adopted and proclaimed by the General Assembly of the United Nations, states in paragraph 2 of Article 13 that “Everyone has the right to leave any country, including his own, and to return to his country”;

(2) the Universal Declaration of Human Rights states in Article 19 that “Everyone has the right to freedom of opinion and

¹⁰²Sec. 704 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2328) struck out “from the Soviet Union” after “independence”.

expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers”;

(3) the Government of Cuba has violated the Cuban people’s internationally recognized human rights, including freedom of movement, emigration, opinion, and expression;

(4) Cuban human rights violations are a major obstacle to improved United States-Cuban relations; and

(5) the United Nations Human Rights Commission has acted selectively in addressing human rights violations in various countries and has failed to place Cuba on its agenda despite overwhelming evidence of the continuing disregard and systematic abuse of internationally recognized human rights by the Government of Cuba.

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

(1) the Government of Cuba should respect internationally recognized human rights, including freedom of movement, emigration, opinion, and expression; and

(2) the United States delegation to the United Nations should continue its commendable efforts to bring this issue before the attention of the United Nations and to place Cuban human rights abuses on the agenda of the United Nations Human Rights Commission.

(c) **DISTRIBUTION OF TEXT TO U.N. MEMBERS.**—The Secretary of State shall cause the text of this section to be circulated by the United States among the members of the United Nations in order to highlight Cuba’s behavior in violation of the Universal Declaration of Human Rights.

SEC. 1212. PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua’s independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

SEC. 1213. TERRORIST BOMBING IN HONDURAS.

(a) **FINDINGS.**—The Congress finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Comayagua, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(4) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(5) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero; and

(6) the United States Government has protested to the Government of Mexico.

(b) **STATEMENT OF POLICY.**—It is the sense of the Congress that—

(1) the United States Congress deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

SEC. 1214. HUMAN RIGHTS IN PARAGUAY.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Paraguay systematically has violated the internationally recognized human rights of its citizens;

(2) various provisions of Paraguayan law provide for the detention of individuals without trial for an indefinite period of time;

(3) the police authorities in Paraguay arbitrarily arrest and detain individuals; and

(4) the police authorities have tortured and abused prisoners, resulting in the death of a number of detainees.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Paraguay to respect the internationally recognized human rights of its citizens.

PART C—AFRICA

SEC. 1221. HUMAN RIGHTS IN ETHIOPIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Ethiopia has systematically violated the internationally recognized human rights of its citizens;

(2) the Government of Ethiopia holds large numbers of political prisoners and regularly detains without trial many other political opponents of the government;

(3) the Government of Ethiopia engages in torture and ill-treatment of political prisoners;

(4) reliable reports indicate that many political opponents of the Government of Ethiopia “disappear” and that approximately sixty political prisoners were executed in October 1985 without benefit of trial; and

(5) over one million Ethiopians have fled the country.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Ethiopia to respect the internationally recognized human rights of its citizens.

SEC. 1222.¹⁰³ UNITED STATES POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

¹⁰³Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

“should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvements in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in

States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states."

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

SEC. 1223.¹⁰⁴ * * * [Repealed—1993]

SEC. 1224.¹⁰⁵ * * * [Repealed—1993]

PART D—MIDDLE EAST

SEC. 1231. MIDDLE EAST PEACE CONFERENCE.

(a) **FINDINGS.**—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent United States initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements between the Arab States and Israel.

(b) **POLICY.**—It is the sense of the Congress that the United States should not actively encourage the participation of the Soviet Union in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless the Government of the Soviet Union has either—

(1)(A) reestablished diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly reaffirmed its acceptance of United Nations Resolutions 242 and 338; and

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within

¹⁰⁴Sec. 1223 had required a report to Congress from the Secretary of State on forced detention by the African National Congress and the South African Government since the South African Government enacted a State of Emergency in June 1986. It was repealed by sec. 4(b)(3) of Public Law 103-149 (107 Stat. 1505).

¹⁰⁵Sec. 1224, relating to detention of children in South Africa, was repealed by sec. 4(b)(3) of Public Law 103-149 (107 Stat. 1505).

the Soviet Union who have applied for emigration to the State of Israel; or

(2) been jointly invited by the governments of the states in the region involved in the talks.

SEC. 1232. UNITED STATES POLICY TOWARD LEBANON.

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

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) FURTHER SENSE OF CONGRESS.—It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, title I and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

SEC. 1233. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

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

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels.

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining.

(3) On September 23, 1987, President Reagan declared that this United States action was “authorized by law”, and a statement was issued by the State Department that the United States had the right under international law to use “reasonable and proportionate force” to terminate the mining.

(b) POLICY.—It is the sense of the Congress that—

(1) by mining the high seas of the Persian Gulf without notifying nonbelligerent nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law; and

(3) fostering broader adherence to international law promotes the security interests of the United States.

SEC. 1234. UNITED STATES POLICY TOWARD THE IRAN-IRAQ WAR.

(a) FINDINGS.—The Congress finds that—

(1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

(b) POLICY.—The Congress declares it to be the policy of the United States consistent with United Nations Security Council Resolution 598—

(1) to support the withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations;

(4) to encourage all governments to refrain from providing military supplies to any party which refuses to abide by United Nations Security Council Resolution 598;

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

SEC. 1235. IRAN HUMAN RIGHTS VIOLATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) the United Nations Subcommittee on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) the United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) executions, including executions of children and members of religious minorities, still take place in Iran;

(6) the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region; and

(10) it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) POLICY.—Now, therefore, the Congress—

(1) expresses concern for those citizens who must endure war and unprecedented repression;

(2) supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran; and

(3) urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons, to pressure Iran to permit inspection of Iranian prisons by an international delegation, and to respect internationally recognized human rights.

SEC. 1236. IRANIAN PERSECUTION OF THE BAHAI'S.

(a) POLICY.—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the

United Nations and the United Nations Declaration of Human Rights.

(b) IMPLEMENTATION OF POLICY.—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

PART E—ASIA

SEC. 1241.¹⁰⁶ * * * [Repealed—1993]

SEC. 1242. REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces", political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitably classified form, and in an unclassified form, con-

¹⁰⁶Sec. 1241, relating to Soviet occupation of Afghanistan, was repealed by sec. 702(a) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2328).

taining the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

SEC. 1243. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the non-violent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as an historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Xinjiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas

in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) **TRANSFER OF DEFENSE ARTICLES.**—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) **MIGRATION AND REFUGEE ASSISTANCE.**—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) **SCHOLARSHIPS.**—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

SEC. 1244. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) **FINDINGS.**—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with some 140,000 troops;

(4) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(5) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(6) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(7) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge and has caused hundreds of thousands of Cambodians to flee their own country;

(8) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Government in Exile led by Prince Norodom Sihanouk;

(9) the member states of the United Nations for the eighth time, and by a record vote, approved a resolution at the forty-second session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(10) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(11) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the Association of Southeast Asian Nations and supported by the United States to resolve the situation in Cambodia; and

(12) in the absence of a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) STATEMENT OF POLICY.—The Congress—

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon the Government of the Socialist Republic of Vietnam to immediately withdraw all of its occupation forces from Cambodia and to negotiate a settlement which restores self-determination to the Cambodian people;

(3) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of an end to Vietnam's isolation in the world community and an improvement of its relations with the United States;

(4) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(5) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(6) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress the basic human rights, culture, and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 1245. HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the advancement of human rights is a stated objective of the foreign policy of the United States;

(2) the constitutional guarantees of freedom of speech, press, and peaceful assembly have not been adequately respected in the People's Republic of China;

(3) the exercise of religious activities has a detrimental effect on a participant's civil, social, and economic status within the People's Republic of China;

(4) the freedom of movement and the freedom to form independent trade unions and other voluntary associations are severely curtailed;

(5) there have been some encouraging developments including an effort by the current leadership of the People's Republic of China to develop economic policies without regard to a rigid application of Maoist ideology; and

(6) the American people desire to extend their moral support to the struggle for freedom and justice within the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the leadership of the People's Republic of China should take necessary steps toward establishing a more democratic society, with a free and open political system that will protect the essential human rights of all people living within that country.

SEC. 1246. DEMOCRACY IN TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940s;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist

Party, to enhance the rule of law, and to increase the powers of local-level government; and

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) gradually moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan, as stated in the Taiwan Relations Act, and our encouragement for democracy to the leaders and the people of Taiwan.

PART F—MISCELLANEOUS

SEC. 1251. REPORT ON ILLEGAL TECHNOLOGY TRANSFERS.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of the Congress a report concerning:

(1) The status of the Japanese Government investigation of the transfer of milling machines to the Soviet Union by Toshiba Machine Company, including any prosecution, fine, or other government action.

(2) The status of the Norwegian Government investigation of the transfer of numerical controllers by Kongsberg Vappenfabrik (KV) to the Soviet Union, including any prosecution, fine, or other government action.

(3) Actions undertaken by the Japanese and Norwegian Governments to ensure that such transfers or other breaches of security related to international espionage do not recur.

(4) Actions and plans of the United States Government to respond to such cases of international espionage.

(b) DISCUSSIONS.—The Secretary of State shall enter into discussions with Japan and Norway regarding compensation for damage to United States national security resulting from such cases of international espionage. The Secretary shall submit a preliminary report to the appropriate committees of the Congress concerning the status of such discussions 180 days after the date of enactment of this Act and shall submit a final report 360 days after the date

of enactment of this Act. The Secretary may submit such other subsequent reports as may be appropriate.

SEC. 1252. REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM.

It is the sense of the Congress that the President should convene a summit meeting of Western world leaders to adopt a unified effective program against international terrorism.

SEC. 1253. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passports.

(b) DISCUSSIONS.—The Congress urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of the place of birth as a required item of information on passports.

SEC. 1254. SUPPORT OF MUTUAL DEFENSE ALLIANCES.

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

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends tens of billions of dollars annually to assist in the defense of allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and particularly Japan is not commensurate with their economic resources, and, as a result, the United States bears a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its gross national product on defense.

(5) United States allies, particularly West Germany and Japan, have derived tremendous economic benefit from the free trade system among the Western countries, accumulating in certain cases large payments surpluses, while protected through military alliances to which the United States has made an overwhelming commitment of resources.

(6) The greatest weakness in the ability of the United States to sustain the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(7) The Federal budget deficit must be reduced in order to revitalize the economy.

(8) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels could weaken the long-term vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) the President should enter into discussions with countries which participate in mutual defense alliances with the United States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such discussions with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources;

(3) the President should report to the Congress, within one year after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

* * * * *

TITLE XIII—EFFECTIVE DATE

SEC. 1301. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

n. Foreign Relations Authorization Act, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; as amended by Public Law 99-151 [Legislative Branch Appropriations Act, 1986; H.R. 2942], 99 Stat. 792, approved November 13, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 868, approved August 27, 1986; Public Law 100-202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-392 [Legislative Branch Appropriations Act, 1993; H.R. 5427], 106 Stat. 1703, approved October 6, 1992; Public Law 102-549 [International Narcotics Control Act of 1992, H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-119 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998; H.R. 2267], 111 Stat. 2440, approved November 26, 1997; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998; Public Law 106-57 [Legislative Branch Appropriations Act, 2000; H.R. 1905], 113 Stat. 408, approved September 29, 1999

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1986 and 1987”.

(b) TABLE OF CONTENTS.—* * *

TITLE I—DEPARTMENT OF STATE

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties,

and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) ADMINISTRATION OF FOREIGN AFFAIRS.—For “Administration of Foreign Affairs”, \$1,828,088,000 for the fiscal year 1986¹ and \$1,873,790,000 for the fiscal year 1987.²

(2) INTERNATIONAL ORGANIZATIONS AND CONFERENCES.—For “International Organizations and Conferences”, \$534,074,000 for the fiscal year 1986³ and \$534,074,000 for the fiscal year 1987.⁴

(3) INTERNATIONAL COMMISSIONS.—For “International Commissions”, \$28,704,000 for the fiscal year 1986⁵ and \$25,824,000 for the fiscal year 1987.⁶

¹The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for fiscal year 1986 for the “Administration of Foreign Affairs” itemized in the following manner: salaries and expenses—\$1,455,000,000; reopening consulates—\$1,700,000; representation allowances—\$4,700,000; protection of foreign missions and officials—\$9,500,000; A acquisition and maintenance of buildings abroad—\$337,000,000; emergencies in the diplomatic and consular service—\$4,400,000; payment to the American Institute in Taiwan—\$9,800,000; payment to the Foreign Service Retirement and Disability Fund—\$118,174,000.

The Urgent Supplemental Appropriations Act, 1987 (Public Law 99-349; 100 Stat. 716), also provided:

“ADMINISTRATION OF FOREIGN AFFAIRS

“SALARIES AND EXPENSES

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for ‘Salaries and expenses’, \$283,104,000, to remain available until expended: *Provided*, That \$222,104,000 of this amount shall become available for obligation on September 30, 1986.

“ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for ‘Acquisition and Maintenance of Buildings Abroad’, to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees’ policies concerning the reprogramming of funds contained in Public Law 99-180, \$409,000,000, to remain available until expended: *Provided*, That such funds shall become available for obligation on September 30, 1986.

“COUNTERTERRORISM RESEARCH AND DEVELOPMENT

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for ‘Counterterrorism Research and Development’, \$10,000,000 to remain available until September 30, 1987.”

²Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for the “Administration of Foreign Affairs” itemized in the following manner: Salaries and expenses—\$1,527,000,000; representation allowances—\$4,460,000; Protection of Foreign Missions and Officials—\$9,100,000 acquisition and maintenance of buildings abroad—\$440,000,000; emergencies in the diplomatic and consular service—\$4,000,000; payment to the American Institute in Taiwan—\$9,379,000; and payment to the Foreign Service Retirement and Disability Fund—\$127,398,000.

³The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for “International Organizations and Conferences” for fiscal year 1986 itemized in the following manner: contributions to international organizations—\$463,000,000; contributions for international peacekeeping activities—\$29,400,000; and international conferences and contingencies—\$6,000,000.

⁴Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for the “International Organizations and Conferences” itemized in the following manner: contributions to international organizations—\$385,000,000; contributions for international peacekeeping activities—\$29,400,000; and international conferences and contingencies—\$5,460,000. An additional \$31,689,000 for peacekeeping operation’s was provided by title II of the Foreign Assistance and Related Programs Appropriations Act of 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99-591; 100 Stat. 3341).

⁵The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for “International Commissions” for fiscal year 1986 itemized in the following manner: International boundary and Water Commission, United States and Mexico (salaries and expenses) \$11,300,000; (construction) \$2,257,000; American Sections, International Commissions \$3,755,000; and International Fisheries Commissions—\$11,300,000.

⁶Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law, 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for “International Commissions” as follows:

Continued

(4) MIGRATION AND REFUGEE ASSISTANCE.—For “Migration and Refugee Assistance”, \$344,730,000 for the fiscal year 1986⁷ and \$344,730,000 for the fiscal year 1987.⁸

(5) BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Technology Agreements”, \$2,000,000 for the fiscal year 1986⁹ and \$2,000,000 for the fiscal year 1987.¹⁰

(6) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,800,000 for the fiscal year 1986¹¹ and \$5,000,000 for the fiscal year 1987.¹²

SEC. 102. PERMANENT AUTHORIZATIONS OF APPROPRIATIONS.

(a) OTHER AUTHORIZATION OF APPROPRIATIONS.—

(1) Except for authorizations cited in paragraph (2), the only amounts authorized to be appropriated for any fiscal year for the accounts described in section 101 are those amounts specifically authorized to be appropriated for those accounts.

(2) The other authorizations of appropriations referred to in paragraph (1) are those contained in section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696), relating to increases in employee benefits authorized by law and to adverse fluctuations in foreign currency exchange rates and overseas wage and price changes, and in section 821 of the Foreign Service Act of 1980 (22 U.S.C. 4061), relating to the Foreign Service Retirement and Disability Fund.

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF CERTAIN REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations pursuant to the authorizations described in subsection (a)(2), the Secretary shall notify the Committee on Foreign Affairs¹³ of the House of Representatives and the Committee on Foreign Relations of the Senate of such request.

* * * * *

SEC. 104. SECURITY EARMARK.

Of the amounts authorized to be appropriated for “Administration of Foreign Affairs” by section 101(1), not less than \$311,000,000 for the fiscal year 1986 shall be available only for se-

International Boundary and Water Commission, United States and Mexico (salaries and expenses) \$1,800,000; (construction) \$3,900,000; (American Sections, International Commissions) \$3,700,000; (International Fisheries Commission's) \$10,800,000.

⁷The Foreign Assistance Appropriations Act, 1986 (sec. 101(j) of the Continuing Appropriations Act, 1986; Public Law 99-190), appropriated \$338,930,000 for “Migration and Refugee Assistance” during fiscal year 1986.

⁸Title II of the Foreign Assistance and Related Programs Appropriations Act (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99-591; 100 Stat. 3341), appropriated \$346,856,000 for migration and refugee assistance for fiscal year 1987.

⁹The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated \$2,000,000 for United States Bilateral Science and Technology Agreements.

¹⁰Title III of sec. 101(b) of the Continuing Appropriations Act (Department of State Appropriations) provided \$1,700,000 for scientific and technological cooperation with Yugoslavia.

¹¹The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated for fiscal year 1986, \$4,800,000 for Soviet-East European Research and Training.

¹²Title III of sec. 101(b) of the Continuing Appropriations Act (Department of the State Appropriations) provided \$4,600,000 for Soviet-East European research and training.

¹³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

curity-related capital projects and improvements and the salaries and expenses associated with security-related personnel.

SEC. 105. LIAISON BY THE NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION.

Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), \$250,000 for fiscal year 1986 and \$250,000 for the fiscal year 1987 shall be made available to the National Commission on Educational, Scientific, and Cultural Cooperation in order to enable the Commission to maintain a liaison between the United States Government, the United States educational, scientific, cultural, and communications communities, and the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

SEC. 106. AUSTRALIAN BICENTENNIAL.

(a) FINDING.—The Congress finds that the American-Australian Bicentennial Foundation, a private, nonprofit corporation established in 1983 for the purpose of coordinating all United States official and private participation in the 1988 Australian Bicentennial celebration, deserves and needs financial support to effectively carry out that purpose.

(b) GRANT TO AMERICAN-AUSTRALIAN BICENTENNIAL FOUNDATION.—From the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), the Secretary of State may make a grant in each of the fiscal years 1986 and 1987 to the American-Australian Bicentennial Foundation in support of its programs and operations to prepare for United States participation in the Australian Bicentennial celebration.

(c) AUTHORITY OF USIA NOT AFFECTED.—Subsection (b) shall not be construed to affect the authority delegated to the Director of the United States Information Agency under section 102(a)(3) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)).

SEC. 107. WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT.

Of the amounts authorized to be appropriated for "International Organizations and Conferences" by section 101(2), \$750,000 for each of the fiscal years 1986 and 1987 shall be available only for a voluntary contribution to the World Commission on Environment and Development.

SEC. 108. EARMARKING OF REFUGEE ASSISTANCE FUNDS.

Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 101(4)—

(1) \$12,500,000 for the fiscal year 1986 and \$25,000,000 for the fiscal year 1987 shall be available only for assistance for refugees resettling in Israel;

(2) \$56,000,000 for the fiscal year 1986 and \$56,000,000 for the fiscal year 1987 shall be available only for assistance for African refugees; and

(3) \$2,500,000 for the fiscal year 1986 and \$1,750,000 for the fiscal year 1987 shall be available to combat piracy in the Gulf of Thailand, for assistance to pirate victims, to promote the rescue of refugees in distress at sea in Southeast Asia, and to strengthen protection measures for Indochinese boat refugees.

SEC. 109. INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) FINDINGS.—The Congress finds that—

(1) the International Committee of the Red Cross carries out humanitarian missions vital to the United States, including—

(A) the promulgation and implementation of international humanitarian law;

(B) the protection of prisoners of war and of noncombatants in time of conflict;

(C) the protection of political prisoners;

(D) assistance in tracing persons who have disappeared in conflicts or for political reasons;

(E) the provision of medicine, food, and essential assistance to refugees and other victims of man-made disasters; and

(F) assistance in family reunification;

(2) the scope and number of activities carried out by the International Committee of the Red Cross have, as a result of recent global developments, necessarily increased; and

(3) there is an urgent need for increased support from the international community for the regular budget and special appeals of the International Committee of the Red Cross.

(b) UNITED STATES POLICY.—It is the policy of the United States—

(1) to contribute to the International Committee of the Red Cross, in any financial year, an amount not less than 20 percent of the regular budget of the International Committee of the Red Cross; and

(2) to support generously the special appeals made by the International Committee of the Red Cross.

(c) EARMARKING.—Of the amounts authorized to be appropriated for “Migration and Refugee Assistance” by section 101(4), not less than \$4,500,000 for each of the fiscal years 1986 and 1987 shall be available only for contribution to the regular budget of the International Committee of the Red Cross.

(d)¹⁴ * * *

SEC. 110. LIMITATIONS ON USE OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.

Of the amounts authorized to be appropriated for “Migration and Refugee Assistance” by section 101(4), not more than \$2,000,000 for the fiscal year 1986 and not more than \$2,000,000 for the fiscal year 1987 may be used for enhanced reception and placement services.

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SEC. 115.¹⁵ ASSISTANT SECRETARIES OF STATE. * * *

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¹⁴Subsec. (d) repealed sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 99-105; 91 Stat. 844).

¹⁵Amendments made by sec. 115, including raising the number of Assistant Secretaries of State from 13 to 14, are superseded by amendments made to sec. 1 of the State Department Basic Authorities Act of 1956.

SEC. 120.¹⁶ PILOT PROJECT FOR FOREIGN SERVICE ASSOCIATES.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the national interest of the United States would be well served by making more productive use in United States missions abroad of the resources that spouses of American personnel assigned to missions abroad are qualified to provide.

(b) PILOT PROJECT.—(1) The Secretary of State is authorized to design, conduct, and evaluate a pilot project to test appropriate means of increasing employment of qualified spouses of American personnel assigned to United States missions. The intent of the pilot project shall be to construct a feasible program within which spouses' education, training, and relevant work experience can be used effectively within the mission and in the furthering of United States interests in the host country.

(2) The Secretary shall conduct the pilot project described in paragraph (1) in accordance with section 311(b) of the Foreign Service Act of 1980 (22 U.S.C. 3951(b)).

(c) COMMENCEMENT OF DESIGN PHASE.—The Secretary shall undertake the design phase of the pilot project upon the enactment of this Act.

SEC. 121. FEASIBILITY STUDY OF A LATERAL ENTRY PROGRAM INTO THE FOREIGN SERVICE FOR BUSINESSMEN AND FARMERS.

(a) STUDY.—The Secretary of State shall conduct a comprehensive study on the feasibility and desirability of creating a program of lateral entry into the Foreign Service for American businessmen, farmers, and other occupations. This study shall analyze the need for such a program by determining whether or not the personnel of the Foreign Service is composed of many people with a diversity of backgrounds such as business, farming, or other endeavors. The study shall also analyze the costs of putting such a program into effect.

(b) REPORT.—The Secretary of State shall report the results of such a study to the Congress no later than 180 days after the date of the enactment of this Act.

* * * * *

SEC. 123.¹⁷ FOREIGN SERVICE INSTITUTE FACILITIES.

(a)¹⁸ PURPOSE.—The purpose of this section is to promote comprehensive training to meet the foreign relations and national security objectives of the United States and to provide facilities designed for the purpose to assure cost efficient training.

(b) CONSTRUCTION OF TRAINING FACILITIES.—The Administrator of General Services may construct a consolidated training facility for the Foreign Service Institute on a site made available by the Secretary of State or acquired by the Administrator of General Services. Such site shall be located outside the District of Columbia but within reasonable proximity to the Department of State. The Administrator of General Services may carry out this subsection

¹⁶Sec. 139(12) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (d) of this section, which had required the Secretary to report to Congress on the design, implementation, and evaluation of the project.

¹⁷The Foreign Services Institute is now the Institution for Training, pursuant sec. 126 of Public Law 103-236, amending chapter 7 of the Foreign Service Act of 1980.

¹⁸22 U.S.C. 4021 note.

only to the extent that funds are provided in advance in appropriation Acts to the Department of State and are transferred to the Administrator of General Services for carrying out this section.

(c)¹⁹ USE OF FUNDS.—(1)(A) Of amounts authorized to be appropriated to the Department of State for fiscal years 1986 and 1987 for “Administration of Foreign Affairs” by section 101(1), a total of not to exceed \$11,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out feasibility studies, site acquisition, and design, architectural, and engineering planning under subsection (b) of this section.

(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed \$11,000,000 for ‘Administration of Foreign Affairs’ to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).

(2) Of amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, for “Administration of Foreign Affairs”, a total not to exceed \$70,000,000²⁰ may be transferred by the Secretary of State to the Administrator of General Services for carrying out construction under subsection (b) of this section.

(3) Funds may not be obligated for construction of a facility under this section before the end of the period of 30 days of continuous session of Congress beginning on the date on which plans and estimates developed to carry out this section are submitted to the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives²¹ and the Committees on Foreign Relations and Environment and Public Works of the Senate. In determining days of continuous session of Congress for purposes of this paragraph—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the determination.

If both Houses of Congress are not in session on the day any plans and estimates are submitted to such committees, such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If all such committees do not receive a submittal on the same day, such period shall not begin until the date on which all such committees have received it.

¹⁹ Paragraph (1) of subsec. (c) was redesignated subparagraph (A) and new subparagraph (B) was added by sec. 135 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331).

²⁰ Sec. 124 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out “\$50,000,000” and inserted in lieu thereof “\$70,000,000”.

²¹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(9) of that Act provided that references to the Committee on Public Works and Transportation shall be treated as referring to the Committee on Transportation and Infrastructure.

(d) JURISDICTION AND CUSTODY.—The facility constructed under this section and the site of such facility shall be under jurisdiction and in the custody of the Administrator of General Services.

(e)²² OPERATION, MAINTENANCE, SECURITY, ALTERATION, AND REPAIR.—(1) The Administrator of General Services shall delegate, in accordance with section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486) and section 15 of the Public Buildings Act of 1959 (40 U.S.C. 614), to the Secretary of State responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section, provided the facility is used by the Secretary for the purposes authorized by this section.

(f) EXEMPTION FROM PAYMENT OF CHARGES.—(1) Except as provided in paragraph (2), the Department of State shall be exempt from the charges required by section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)) for the use of the facility constructed under this section for the Foreign Service Institute.

(2) The Administrator of General Services shall charge the Department of State under such section 210(j) for the costs of any operation, maintenance, repairs, or alterations of such facility carried out by the Administrator of General Services.

* * * * *

SEC. 130.²³ OFFICIAL RESIDENCE OF SECRETARY OF STATE.

(a) CONGRESSIONAL REVIEW.—It is the sense of the Congress that the United States should not accept a gift of any house or other place of residence for the purpose of providing an official residence for the Secretary of State unless the Congress has had an opportunity to review the proposed gift.

(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of any offer of a gift for the purpose of providing a place of official residence for the Secretary of State. Such study shall include an examination of the costs to the United States associated with accepting such gift, including the costs of acquisition, maintenance, security, and daily operation of a residence. The Secretary shall report the results of any study conducted under this section to the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives²¹ and to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate.

SEC. 131. STRENGTHENING THE PERSONNEL SYSTEM OF THE BUREAU OF INTERNATIONAL NARCOTICS MATTERS.

No later than 90 days after the date of the enactment of this Act, the Secretary of State shall report to the Congress on the status of proposals implemented or under consideration to improve the staffing and personnel management in the Bureau of International Narcotics Matters. This report shall explicitly discuss whether a

²² Sec. 2219(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-817) struck out para. (2) of subsec. (e). That paragraph had required the Secretary of State and the Administrator of General Services to report on the delegation of responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section.

²³ 22 U.S.C. 2697 note.

narcotics specialist personnel category in the Foreign Service is an appropriate mechanism to serve these purposes and, if not, what alternatives are contemplated.

SEC. 132.²⁴ SHARING OF INFORMATION CONCERNING DRUG TRAFFICKERS.

(a) **REPORTING SYSTEMS.**—In order to ensure that foreign narcotics traffickers are denied visas to enter the United States, as required by section 212(a)(23) of the Immigration and Naturalization Act (22 U.S.C. 1182(a)(23))—

(1) the Department of State shall cooperate with United States law enforcement agencies, including the Drug Enforcement Administration and the United States Customs Service, in establishing a comprehensive information system on all drug arrests of foreign nationals in the United States, so that that information may be communicated to the appropriate United States embassies; and

(2) the National Drug Enforcement Policy Board shall agree on uniform guidelines which would permit the sharing of information on foreign drug traffickers.

(b) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Chairman of the National Drug Enforcement Policy Board shall submit a report to the Committee on Foreign Affairs²⁵ of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to implement this section.

SEC. 133.²⁶ EXTRADITION TREATIES.

The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country, particularly those in Latin America.

SEC. 134.²⁷ * * * [Repealed—1991]

SEC. 135. COMMENDATION OF AMBASSADOR TO MEXICO.

The Congress commends our fine Ambassador to Mexico, John Gavin, for insuring a full and complete investigation and prosecution of the murders of Enrique Camerena and for his continuing advocacy of a strong drug enforcement program.

SEC. 136.²⁸ SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

(a) **LIMITATION.**—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employ-

²⁴ 8 U.S.C. 1182 note.

²⁵ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁶ 18 U.S.C. 3181 note.

²⁷ Repealed by sec. 191 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 683), sec. 134 recommended that the Secretary of State issue a travel advisory warning U.S. citizens of the current dangers of traveling in the State of Jalisco, Mexico, site of the 1985 murders of two U.S. Drug Enforcement Administration employees and other assaults against U.S. citizens.

²⁸ 22 U.S.C. 3943 note. In a memorandum to the Secretary of State on October 24, 1991, the President determined "that implementation of section 136(a) of the [Foreign Relations Authorization] Act [, Fiscal Years 1986 and 1987] poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Amer-

ees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

SEC. 137. RESPONSIBILITY OF UNITED STATES MISSIONS ABROAD TO PROVIDE SUPPORT FOR UNITED STATES BUSINESSES.

(a) FINDINGS.— The Congress finds that—

(1) the United States is faced with increasingly larger trade deficits every year;

(2) section 104 of the Foreign Service Act of 1980 provides that the members of the Foreign Service shall represent the interests of the United States in relation to foreign countries;

(3) section 207(c) of the Foreign Service Act of 1980 provides that each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods for export to that country; and

(4) the promotion of United States business interests abroad is a fundamental aspect of United States relations with foreign countries.

(b) POLICY.—It is the sense of the Congress that it is imperative, and in the national interest of the United States, that each United States mission to a foreign country provide such support as may be necessary to United States citizens seeking to do business in that country.

SEC. 138.²⁹ RESPONSIBILITY OF UNITED STATES MISSIONS TO PROMOTE FREEDOM OF THE PRESS ABROAD.

(a) RESPONSIBILITY.—The United States chief of mission to a foreign country in which there is not respect for freedom of the press shall actively promote respect for freedom of the press in that country.

icans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.” (Presidential Determination 92-4 of October 24, 1991; 56 F.R. 56567, November 6, 1991).

The Secretary of State, in Department of State Public Notice 1531 of December 2, 1991 (Delegation of Authority No. 191; 56 F.R. 64830), delegated to the Deputy Secretary of State the reporting function requested in sec. 136(b).

Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

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

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

²⁹ 22 U.S.C. 2656 note.

(b) DEFINITION.—As used in this section, the term “respect for freedom of the press” means that a government—

- (1) allows foreign news correspondents into the country and does not subject them to harassment or restrictions;
- (2) allows nongovernment-owned press to operate in the country; and
- (3) does not subject the press in the country to systematic censorship.

SEC. 139.³⁰ EMERGENCY TELEPHONE SERVICE AT U.S. CONSULAR OFFICES.

It is the sense of the Congress that the Secretary of State should ensure that all United States consular offices are equipped with 24-hour emergency telephone service through which United States citizens can contact a member of the staff of any such office. The Secretary should publicize the telephone number of each such service for the information of United States citizens. Not more than 90 days after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on steps taken in accordance with this section.

SEC. 140. RESPONSIBILITIES OF UNITED STATES REPRESENTATIVES TO INTERNATIONAL ORGANIZATIONS.

- (a) FINDINGS.—The Congress finds that—
 - (1) international organizations of which the United States is a member are increasingly involved in the consideration of proposals that may have a significant impact on the interstate or foreign commerce of the United States; and
 - (2) these proposals are not always adequately publicized or considered pursuant to open and fair procedures available to interested persons.
- (b) POLICY.—It is the sense of the Congress that—
 - (1) the United States representatives to United Nations-related agencies and to other international organizations should oppose the adoption of international marketing and distribution regulations or restrictions which unnecessarily impede the export of United States goods and services; and
 - (2) the Secretary of State, to the extent practicable, should publish procedures to provide interested persons with timely notice and an opportunity to comment on such regulations and restrictions under consideration in international organizations as the Secretary determines may significantly affect—
 - (A) the interstate or foreign commerce of the United States;
 - (B) the policies or programs of the United States Government; or
 - (C) any State significantly affected by interstate or foreign commerce.

* * * * *

SEC. 143.³¹ * * * [Repealed—1991]

* * * * *

³⁰ 22 U.S.C. 2656 note.
³¹ Formerly at 22 U.S.C. 287e note. Sec. 143, relating to reform in budget decision-making procedures of the United Nations and its specialized agencies, was repealed by sec. 162(e) of the

SEC. 145. INTERNATIONAL JUTE ORGANIZATION.

The President is authorized to maintain membership of the United States in the International Jute Organization.

SEC. 146.³² INTELSAT.

(a) **POLICY.**—The Congress declares that it is the policy of the United States—

(1) as a party to the International Telecommunications Satellite Organization (hereafter in this section referred to as “Intelsat”), to foster and support the global commercial communications satellite system owned and operated by Intelsat;

(2) to make available to consumers a variety of communications satellite services utilizing the space segment facilities of Intelsat and any additional such facilities which are found to be in the national interest and which—

(A) are technically compatible with the use of the radio frequency spectrum and orbital space by the existing or planned Intelsat space segment, and

(B) avoid significant economic harm to the global system of Intelsat; and

(3) to authorize use and operation of any additional space segment facilities only if the obligations of the United States under article XIV(d) of the Intelsat Agreement³³ have been met.

(b) **PRECONDITIONS FOR INTELSAT CONSULTATION.**—Before consulting with Intelsat for purposes of coordination of any separate international telecommunications satellite system under article XIV(d) of the Intelsat Agreement, the Secretary of State shall—

(1) in coordination with the Secretary of Commerce, ensure that any proposed separate international satellite telecommunications system comply with the Executive Branch conditions established pursuant to the Presidential Determination No. 85-2;³⁴ and

(2) ensure that one or more foreign authorities have authorized the use of such system consistent with such conditions.

(c) **AMENDMENT OF INTELSAT AGREEMENT.**—(1) The Secretary of State shall consult with the United States signatory to Intelsat and the Secretary of Commerce regarding the appropriate scope and character of a modification to article V(d) of the Intelsat Agreement which would permit Intelsat to establish cost-based rates for individual traffic routes, as exceptional circumstances warrant, paying particular attention to the need for avoiding significant economic harm to the global system of Intelsat as well as United States national and foreign policy interests.

(2)(A) To ensure that rates established by Intelsat for such routes are cost-based, the Secretary of State, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall instruct the United States signatory to Intelsat to ensure that sufficient documentation, including docu-

Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676).

³² 47 U.S.C. 701 note.

³³ 23 UST 3813.

³⁴ 3 C.F.R. 1984 Comp., p. 254.

mentation regarding revenues and costs, is provided by Intelsat so as to verify that such rates are in fact cost-based.

(B) To the maximum extent possible, such documentation will be made available to interested parties on a timely basis.

(3) Pursuant to the consultation under paragraph (1) and taking the steps prescribed in paragraph (2) to provide documentation, the United States shall support an appropriate modification to article V(d) of the Intelsat Agreement³⁵ to accomplish the purpose described in paragraph (1).

(d) CONGRESSIONAL CONSULTATION.—In the event that, after United States consultation with Intelsat for the purposes of coordination under article XIV(d) of the Intelsat Agreement for the establishment of a separate international telecommunications satellite system, the Assembly of Parties of Intelsat fails to recommend such a separate system, and the President determines to pursue the establishment of a separate system notwithstanding the Assembly's failure to approve such system, the Secretary of State, after consultation with the Secretary of Commerce, shall submit to the Congress a detailed report which shall set forth—

(1) the foreign policy reasons for the President's determination, and

(2) a plan for minimizing any negative effects of the President's action on Intelsat and on United States foreign policy interests.

(e) NOTIFICATION TO FEDERAL COMMUNICATIONS COMMISSION.—In the event the Secretary of State submits a report under subsection (d), the Secretary, 60 calendar days after the receipt by the Congress of such report, shall notify the Federal Communications Commission as to whether the United States obligations under article XIV(d) of the Intelsat Agreement have been met.

(f) IMPLEMENTATION.—In implementing the provisions of this section, the Secretary of State shall act in accordance with Executive order 12046.³⁶

(g) DEFINITION.—For the purposes of this section, the term "separate international telecommunications satellite system" or "separate system" means a system of one or more telecommunications satellites separate from the Intelsat space segment which is established to provide international telecommunications services between points within the United States and points outside the United States, except that such term shall not include any satellite or system of satellites established—

(1) primarily for domestic telecommunications purposes and which incidentally provides services on an ancillary basis to points outside the jurisdiction of the United States but within the western hemisphere, or

(2) solely for unique governmental purposes.

³⁵ 23 UST 3813.

³⁶ 3 C.F.R. 1978 Comp., p. 158.

SEC. 147.³⁷ * * * [Repealed—1993]

SEC. 148.³⁸ * * * [Repealed—1993]

SEC. 149. INTER-AMERICAN COOPERATION IN SPACE, SCIENCE, AND TECHNOLOGY.

The Secretary of State shall conduct an in-depth study of the feasibility and the economic and political benefits of the establishment of a major initiative in Inter-American Cooperation in Space, Science, and Technology. Not more than one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include recommendations for implementing such an initiative.

SEC. 150. DEPARTMENT OF STATE INSPECTOR GENERAL.

(a)³⁹ * * *

(b)⁴⁰ **ABOLISHMENT OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF STATE AND THE FOREIGN SERVICE.**—Notwithstanding section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929), the Inspector General of the Department of State and the Foreign Service is hereby abolished.

(c) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps the Secretary has undertaken to implement the provisions of the amendment made by subsection (a).

SEC. 151.⁴¹ **EMPLOYEES OF THE UNITED NATIONS.**

(a) **INITIAL REPORT.**—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on whether, and the extent to which, international civil servants employed by the United Nations, including those seconded to the United Nations, are required to return all or part of their salaries to their respective governments. The Secretary shall also include in this report a description of the steps taken by the Department of State and by the United States Representative to the United Nations to correct this practice.

(b) **REPORT ON STEPS TO CORRECT PRACTICE.**—The Secretary of State shall determine and report to the Congress on whether substantial progress has been made by June 1, 1986, in correcting the practice of international civil servants employed by the United Nations being required to return all or part of their salaries to their respective governments.

(c) **REDUCTION IN CONTRIBUTION IF SUBSTANTIAL PROGRESS NOT MADE.**—If the Secretary of State determines pursuant to subsection (b) that substantial progress has not been made in correcting this practice, the United States shall thereafter reduce the amount of its annual assessed contribution to the United Nations by the amount of that contribution which is the United States proportionate share of the salaries of those international civil servants

³⁷Sec. 802 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2329) repealed sec. 147, relating to Soviet and Communist disinformation and press manipulation.

³⁸Sec. 904 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) repealed sec. 148, expressing the sense of the Congress regarding the murder of Major Arthur D. Nicholson, Jr.

³⁹Subsec. (a) established a Department of State Inspector General under the Inspector General Act of 1978.

⁴⁰Subsec. (b) was substantially amended and restated by sec. 413(c) of the Omnibus Diplomatic and Antiterrorism Act of 1986 (Public Law 99-399; 100 Stat. 868).

⁴¹22 U.S.C. 287e.

employed by the United Nations who are returning any portion of their salaries to their respective governments.

(d) NATIONAL TAXATION.—This section does not apply with respect to payments made for purposes of national taxation in accordance with formal treaty reservations concerning such taxation by a member state of the United Nations.

SEC. 152.⁴² REPRESENTATION OF MINORITIES AND WOMEN IN THE FOREIGN SERVICE.

(a) DEVELOPMENT OF PROGRAM.—The head of each agency utilizing the Foreign Service personnel system shall develop, consistent with section 7201 of title 5 of the United States Code, a plan designed to increase significantly the number of members of minority groups and women in the Foreign Service in that agency.

(b) EMPHASIS ON MID-LEVELS.—Each plan developed pursuant to this section shall, consistent with section 7201 of title 5 of the United States Code, place particular emphasis on achieving significant increases in the numbers of minority group members and women who are in the mid-levels of the Foreign Service.

(c)⁴³ * * * [Repealed—1987]

* * * * *

SEC. 154.⁴⁴ * * * [Repealed—1991]

SEC. 155.⁴⁵ * * * [Repealed—1993]

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TITLE II—UNITED STATES INFORMATION AGENCY⁴⁶

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING⁴⁷

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TITLE IV—THE ASIA FOUNDATION⁴⁸

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TITLE V—IRAN CLAIMS SETTLEMENT⁴⁹

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⁴²22 U.S.C. 3922a. See also sec. 178 of the Foreign Relations Authorization Act, Fiscal Years 1995 and 1996 (Public Law 103-236; 108 Stat. 414); and sec. 2318 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105(277; 112 Stat. 2681-829).

⁴³Subsec. (c) was repealed by sec. 185(c)(3) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331). It required the head of each agency utilizing Foreign Service personnel to report annually to the Congress on the plan developed pursuant to sec. 152.

⁴⁴Sec. 154, relating to damages resulting from delays in the construction of the U.S. Embassy in Moscow, was repealed by sec. 132(h)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 665).

⁴⁵Sec. 804 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2329) repealed sec. 155, relating to Soviet and international Communist behavior.

⁴⁶For free-standing provisions of this title, see page 1309.

⁴⁷Title III contained amendments to the Board for International Broadcasting Act of 1973. For free-standing provisions of this title, see page 1516.

⁴⁸Title IV amended sec. 404 of the Asia Foundation Act.

⁴⁹For free-standing provisions of this title, see *Legislation on Foreign Relations Through 2001*, vol. IV, sec. N.

**TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM
FOR DEVELOPING COUNTRIES**⁵⁰

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TITLE VII—ARMS CONTROL AND DISARMAMENT⁵¹

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TITLE VIII—MISCELLANEOUS PROVISIONS⁵²

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SEC. 802. UNITED STATES INSTITUTE OF PEACE.

It is the sense of the Congress that, pursuant to title XVII of the Department of Defense Authorization Act,⁵³ 1985 (22 U.S.C. 4601 et seq.), nominations to the Board of Directors for the United States Institute of Peace should be submitted to the Senate on a timely basis to permit implementation of the congressional mandate.

SEC. 803.⁵² **EX GRATIA PAYMENT TO THE GOVERNMENT OF SWITZERLAND.**

Section 39 of the Trading With the Enemy Act (62 Stat. 1246, 50 U.S.C. App. 39) is amended by adding at the end thereof the following new subsection:

“(f) Notwithstanding any of the provisions of subsections (a) through (d) of this section, the Attorney General is authorized to pay from property vested in or transferred to the Attorney General under this Act, the sum of \$20,000 as an ex gratia payment to the Government of Switzerland in accordance with the terms of the agreement entered into by that Government and the Government of the United States on March 12, 1980.”

SEC. 804.⁵⁴ **POLICY TOWARD APPLICATION OF THE YALTA AGREEMENT.**

(a) **FINDINGS.**—The Congress finds that—

(1) during World War II, representatives of the United States, Britain, and the Soviet Union took part in agreements and understandings concerning other peoples and nations in Europe;

⁵⁰ For text of this title, see page 1398.

⁵¹ Title VII contained amendments to the Arms Control and Disarmament Act. For free-standing provisions of this title, see page 1582.

⁵² Title VIII amended the National Emergencies Act, the Trading With the Enemy Act, and the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. Free-standing provisions are presented below, together with sec. 803, which amended sec. 39 of the Trading With the Enemy Act. Sec. 39 of the amended Act does not appear elsewhere in this volume.

⁵³ 98 Stat. 2649.

⁵⁴ Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

“(2) sections 136 and 804 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93), * * *
“should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.”

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

(2) the Soviet Union has not adhered to its obligation undertaken in the 1945 Yalta agreement to guarantee free elections in the countries involved, specifically the pledge for the “earliest possible establishment of free elections of government responsive to the wills of the people and to facilitate where necessary the holding of such elections”;

(3) the strong desire of the people of Central and Eastern Europe to exercise their national sovereignty and self-determination and to resist Soviet domination has been demonstrated on many occasions since 1945, including armed resistance to the forcible Soviet takeover of the Baltic Republics and resistance in the Ukraine as well as in the German Democratic Republic in 1953, in Hungary in 1956, in Czechoslovakia in 1968, and in Poland in 1956, 1970, and since 1980;

(4) it is appropriate that the United States express the hopes of the people of the United States that the people of Central and Eastern Europe be permitted to exercise their national sovereignty and self-determination free from Soviet interference; and

(5) it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1945 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe.

(b) **POLICY.**—(1) The United States does not recognize as legitimate any spheres of influence in Europe and it reaffirms its refusal to recognize such spheres in the present or in the future, by repudiating any attempts to legitimize the domination of East European nations by the Soviet Union through the Yalta executive agreement.

(2) The United States proclaims the hope that the people of Eastern Europe shall again enjoy the right to self-determination within a framework that will sustain peace, that they shall again have the right to choose a form of government under which they shall live, and that the sovereign rights of self-determination shall be restored to them in accordance with the pledge of the Atlantic Charter and with provisions of the United Nations Charter⁵⁵ and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;⁵⁶

SEC. 805.⁵⁷ * * * [Repealed—1993]

SEC. 806. DEMOCRACY ON TAIWAN.

(a) **FINDINGS.**—The Congress finds that—

(1) peace has prevailed in the Taiwan Strait since the normalization of relations between the United States and the People’s Republic of China;

(2) the United States expects the future of Taiwan to be settled peacefully and considers a secure Taiwan free from external threat an indispensable element for the island’s further democratization and a goal set forth in the Taiwan Relations Act;

⁵⁵55 Stat. 1600.

⁵⁶59 Stat. 1031.

⁵⁷Sec. 903(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) repealed sec. 805, relating to treatment in the Soviet Union of pentecostals.

(3) the authorities on Taiwan are striving to achieve greater democracy at the local level;

(4) an increasing number of native Taiwanese have been appointed to responsible positions at the provincial and national level on Taiwan;

(5) martial law measures tend to impede progress toward democracy and to abridge guarantees of human rights;

(6) movement toward greater democracy on Taiwan serves to bolster continued American public support for the moral and legal responsibilities set forth in the Taiwan Relations Act;⁵⁸

(7) the United States, in the Taiwan Relations Act, has reaffirmed as a national objective the preservation and enhancement of the human rights of all the people on Taiwan; and

(8) the United States considers democracy a fundamental human right.

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

(1) one important element of a peaceful future for Taiwan is greater participation in the political process by all the people on Taiwan; and

(2) accordingly, the United States should encourage the authorities on Taiwan, in the spirit of the Taiwan Relations Act, to work vigorously toward this end.

SEC. 807. INCREASE UNITED STATES-CHINA TRADE.

(a) FINDINGS.—The Congress finds that—

(1) the People's Republic of China has made substantial progress in promoting market-oriented practices throughout the Chinese economy;

(2) the Chinese economy has responded to this increased liberalization with record growth that last year alone resulted in increases in the real gross national product of an estimated 13 percent;

(3) this growth has created significant new demand for a vast array of products and services that can be met by American producers;

(4) United States trade with the People's Republic of China totalled only \$6,000,000,000 in 1984 and was again in deficit by more than \$50,000,000;

(5) increased exports are essential to the creation of American jobs and to the vitality of the American economy; and

(6) the People's Republic of China represents the world's largest potential market.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, consistent with overall American foreign policy and national security objectives, the Secretary of State and the Secretary of Commerce should take appropriate steps to increase United States-China trade with a view to improving the trade balance, increasing American jobs through export growth, and assuring significant United States participation in the growing Chinese market.

* * * * *

⁵⁸ 22 U.S.C. 3301 note.

SEC. 809. REFUGEES IN THAILAND.

(a) APPRECIATION FOR THE RESPONSE OF THE GOVERNMENT OF THAILAND.—The Congress recognizes and expresses appreciation for the extraordinary willingness of the Government of Thailand to respond in a humanitarian way to the influx of refugees fleeing Vietnamese communist oppression.

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

(1) Cambodians, Laotians, and Vietnamese seeking asylum and refuge in Thailand should not be involuntarily repatriated or otherwise put at risk; and

(2) every effort should be made to provide increased security for refugees in camps in Thailand which should include an increased presence by international humanitarian organizations.

(c) REVIEW OF CERTAIN CAMBODIAN REFUGEES.—

(1) The Secretary of State should—

(A) work with the Government of Thailand and the United Nations High Commissioner for Refugees to conduct a review of the status of Cambodians who have not been permitted to register at refugee camps in Thailand; and

(B) implement a humanitarian solution to their plight.

(2) The Secretary of State, with the assistance of appropriate agencies, should conduct a review of those Cambodians who have been rejected for admission to the United States to ensure such decisions are consistent with the letter and spirit of United States refugee and immigration law.

(3) The Secretary of State, with the assistance of appropriate agencies, should institute as expeditiously as possible a family reunification program for those refugees in Thailand, including those at the border who have family members in the United States.

(4) The Secretary of State should provide for a program of educational assistance for Cambodians in the border camps and for improved literacy training in all camps.

SEC. 810. POLICY REGARDING FOREIGN EXCHANGE INTERVENTION.

(a) FINDINGS.—The Congress finds and declares that—

(1) the trade deficit looms larger than any other threat to the ability of the United States to generate jobs and create economic well-being;

(2) the trade deficit continues to deteriorate even from the 1984 level of \$123,000,000,000;

(3) the trade deficit will continue to deteriorate until the value of the dollar declines on foreign exchange markets;

(4) the dollar's rise may slow down but is unlikely to fall sufficiently as a result of Congress' contemplated budget deficit reduction measures;

(5) the value of the dollar would probably fall under a number of tax reform proposals but industries losing market share due to the exchange rate may not be able to wait for a complete tax package;

(6) the only remaining timely option for lowering the value of the dollar is intervention in foreign exchange markets by the Secretary of the Treasury or the Federal Reserve Board;

(7) any such intervention must be strong enough to achieve the intent of the Congress of lowering the dollar's value but sufficiently moderate to prevent a sudden drop in its value;

(8) any such intervention in order to assure a gradual decline and protect against too large a drop in the value of the dollar, will require coordinated action by the central banks of Europe and Japan as well as the United States; and

(9) such coordination is especially important to strengthen economic and political ties with the allies of the United States and to promote consistent macroeconomic policies to the mutual benefit of all.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that—

(1) the Secretary of the Treasury and the Chairman of the Federal Reserve Board, in concert with United States allies and coordinated with the central banks of the Group of Five or other major central banks, should take such steps as are necessary to lower gradually the value of the dollar;

(2) such steps should not exclude intervention in the foreign exchange markets;

(3) the Secretary of the Treasury and the Chairman of the Federal Reserve Board should work to ensure that the domestic macroeconomic policies of the United States and its allies are forged to reinforce rather than oppose one another.

SEC. 811. COMMENDING MAYOR TEDDY KOLLEK OF JERUSALEM.

(a) FINDINGS.—The Congress finds that—

(1) Mayor Teddy Kollek has worked to promote harmony among all the people of Jerusalem; and

(2) he has promoted freedom of access to religious shrines for Muslims, Christians, and Jews; and

(3) through his efforts the aesthetic character of the city has been enhanced.

(b) COMMENDATION.—Therefore, the Congress commends Mayor Kollek for his efforts over the years.

SEC. 812.⁵⁹ JAPAN-UNITED STATES SECURITY RELATIONSHIP AND EFFORTS BY JAPAN TO FULFILL SELF-DEFENSE RESPONSIBILITIES.

(a) FINDINGS.—The Congress hereby finds—

(1) the Japan-United States security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and economic prosperity enjoyed by both the United States and Japan;

(2) the threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam, and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

⁵⁹ 22 U.S.C. 1928 note. Sec. 139(14) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (c) of this section, which had required that the President report annually on Japan's progress toward fulfilling its common defense commitment.

(3) in recognition of these and other threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period;

(4) the United States Government appreciates the May 1981 commitment by the Prime Minister of Japan that, pursuant to the Treaty of Mutual Cooperation and Security of 1960 between Japan and the United States, Japan,⁶⁰ on its own initiative, would seek to make even greater efforts for improving its defense capabilities, and pursuant to Japan's own Constitution, it was national policy for his country to acquire and maintain the self-defense forces adequate for the defense of its land area and surrounding airspace and sealanes, out to a distance of 1,000 miles;

(5) the United States Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles, expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving those capabilities would significantly improve the national security of both Japan and the United States;

(6) the United States Government appreciates the contribution already made by Japan through the Host Nation Support Program and its recent efforts to increase its defense spending; and

(7) Japan, however, in recent years consistently has not provided sufficient funding and resources to meet its self-defense needs and to meet common United States-Japan defense objectives and alliance responsibilities.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Japan, to fulfill its self-defense responsibilities pursuant to the 1960 Mutual Cooperation and Security Treaty with the United States, and in accordance with the national policy declaration made by its Prime Minister in May 1981, to develop a 1,000-mile airspace and sealanes defense capability, should implement a 1986-1990 Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of the decade, including the allocation of sufficient budgetary resources annually to reduce substantially the ammunition, logistics, and sustainability shortfalls of its self-defense forces.

SEC. 813.⁶¹ * * * [Repealed—1993]

SEC. 814.⁶² **UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.**⁶³

(a) ESTABLISHMENT.—There is established the United States Senate Caucus on International Narcotics Control (hereafter in this section referred to as the "Caucus").⁶³

⁶⁰ 11 UST 1632.

⁶¹ Sec. 501(e) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed sec. 813, relating to U.S.-Soviet diplomatic equivalence and reciprocity.

⁶² 22 U.S.C. 2291 note.

⁶³ Sec. 306 of the Legislative Branch Appropriations Act, 1986 (Public Law 99-151; 99 Stat. 808), redesignated the United States International Narcotics Control Commission as the United States Senate Caucus on International Narcotics Control.

(b) DUTIES.—The Caucus⁶³ is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication and other relevant issues; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c) MEMBERSHIP.—(1) The Caucus⁶³ shall be composed of 12 members as follows:

(A) 7 Members of the Senate appointed by the President of the Senate, 4 of whom (including the member designated as Chairman) shall be selected from the majority party of the Senate, after consultation with the majority leader, and 3 of whom (including the member designated as Cochairman) shall be selected from the minority party of the Senate, after consultation with the minority leader.

(B) 5 members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Cochairman of the Caucus.⁶³

(d) POWERS.—In carrying out this section, the Caucus⁶³ may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Caucus⁶³ or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Caucus,⁶³ or any member designated by him, may administer oaths to any witness.

(e) REPORT BY PRESIDENT TO CAUCUS.—In order to assist the Caucus⁶³ in carrying out its duties, the President shall submit to the Caucus⁶³ a copy of the report required by section 489⁶⁴ of the Foreign Assistance Act of 1961 (22 U.S.C. 2991(e)).

(f) REPORT TO SENATE.—The Caucus⁶³ is authorized and directed to report to the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the Senate as requested. For each fiscal year for which an appropriation is made the Caucus⁶³ shall submit to the Congress a report on its expenditures under such appropriation.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Caucus⁶³ \$370,000⁶⁵ for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Caucus⁶³ for the purpose of carrying out the provisions of this section.

(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Caucus⁶³ shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

⁶⁴Formerly read “481(e)”. Sec. 6(a) of the International Narcotics Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that any reference in any provision of law enacted before November 2, 1992, to section 481(e) shall be deemed to be a reference to section 489.

⁶⁵Sec. 625(a) of Public Law 105-119 (111 Stat. 2522) struck out “\$325,000” and inserted in lieu thereof “\$370,000”.

(h) STAFF.—The Caucus⁶³ may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.⁶⁶

(i) TERMINATION.—The Caucus⁶³ shall cease to exist on September 30, 2002.⁶⁷

⁶⁶5 U.S.C. 5101 *et seq.*, 5331.

⁶⁷Sec. 7 of the Legislative Branch Appropriations Act, 2000 (public Law 106-57; 113 Stat. 412), struck out “September 30, 1999” and inserted in lieu thereof “September 30, 2002”. Previously, sec. 625(b) of Public Law 105-119 (111 Stat. 2522) struck out “September 30, 1997” and inserted in lieu thereof “September 30, 1999”; sec. 323 of the Legislative Branch Appropriations Act, 1993 (Public Law 102-392; 106 Stat. 1726) struck out “September 30, 1988” and inserted in lieu thereof “September 30, 1997”; “1988” was substituted in lieu of “1987” by sec. 5 of title I of the Legislative Branch Appropriations Act, 1988 (sec. 101(i) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329).

o. Department of State Authorization Act, Fiscal Years 1984 and 1985

Partial text of Public Law 98–164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983, as amended by Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99–415 [Anglo-Irish Agreement Support Act of 1986, H.R. 4329], 100 Stat. 949, approved September 19, 1986; Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–459 [Department of State Appropriations Act, 1989; H.R. 4782], 102 Stat. 2207, approved October 1, 1988; Public Law 101–515 [Department of State Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101 at 2128, approved November 5, 1990; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1501, approved November 29, 1999

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title and title X of this Act may be cited as the “Department of State Authorization Act, Fiscal Years 1984 and 1985”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. In addition to amounts otherwise authorized for such purposes, the following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For “Administration of Foreign Affairs”, \$1,486,213,000 for the fiscal year 1984¹ and \$1,580,820,000 for the fiscal year 1985.²

(2) For “International Organizations and Conferences”, \$602,343,000 for the fiscal year 1984³ and \$602,343,000 for the fiscal year 1985.⁴

(3) For “International Commissions”, \$23,207,000 for the fiscal year 1984⁵ and \$25,355,000 for the fiscal year 1985.⁶

¹The Department of State Appropriations Act, 1984 (Public Law 98–166) appropriated \$1,406,497,000 for the “Administration of Foreign Affairs” during fiscal year 1984, itemized in the following manner: salaries and expenses—\$1,114,810,000; representation allowances—\$4,148,000; acquisition, operation, and maintenance of buildings abroad—\$160,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$10,012,000; emergencies in the diplomatic and consular service—\$4,356,000; payment to the American Institute in Taiwan—\$9,380,000; and payment to the Foreign Service Retirement and Disability Fund—\$103,791,000.

The Second Supplemental Appropriations Act, 1984 (Public Law 98–396) for additional amounts provided for “Administration of Foreign Affairs” during fiscal year 1984.

²The Department of State Appropriations Act, 1985 (title III of Public Law 98–411) appropriated \$1,631,721,000 for the “Administration of Foreign Affairs” during fiscal year 1985, itemized in the following manner: salaries and expenses—\$1,264,901,000; reopening consulates—\$1,929,000; representation allowances—\$4,500,000; protection of foreign missions and officials—\$9,500,000; acquisition, operation, and maintenance of buildings abroad—\$211,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$19,353,000; emergencies in the diplomatic and consular service—\$4,000,000; payment to the American Institute in Taiwan—\$9,800,000; and payment to the Foreign Service Retirement and Disability Fund—\$106,738,000.

In addition, sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98–473) appropriated \$110,200,000 for the “Administration of Foreign Affairs” during fiscal year 1985, itemized in the following manner: salaries and expenses—\$81,200,000; acquisition, operation, and maintenance of buildings abroad—\$28,000,000; and emergencies in the diplomatic and consular service (to pay rewards for information concerning terrorist acts)—\$1,000,000.

³The Department of State Appropriations Act, 1984 (Public Law 98–166) appropriated \$595,694,000 for “International Organizations and Conferences” during fiscal year 1984, itemized in the following manner: contributions to international organizations—\$520,515,000; contributions to international peacekeeping activities—\$66,279,000; and international conferences and contingencies—\$8,910,000.

The Supplemental Appropriations Act, 1985 (Public Law 99–88) appropriated funds for the “Administration of Foreign Affairs” in the following manner: Salaries and expenses—\$73,342,000 (plus \$12,781,000 transferred from “Contributions to International Organizations”); acquisition, operation, and maintenance of buildings abroad—\$167,579,000 (plus \$2,000,000 for the Special Foreign Currency Program); payment to the Foreign Service Retirement and Disability Fund—\$5,399,000.

⁴The Department of State Appropriations Act, 1985 (title III of Public Law 98–411) appropriated \$559,067,200 for “International Organizations and Conferences” during fiscal year 1985, itemized in the following manner: contributions to international organizations—\$501,667,200; contributions to international peacekeeping activities—\$47,400,000; and international conferences and contingencies—\$10,000,000.

The Supplemental Appropriations Act, 1985 (Public Law 99–88) appropriated a \$1,200,000 transfer of funds for International Fisheries Commissions from “Contributions to International Organizations”, and \$1,000,000 for the Fishermen’s Protective Fund.

⁵The Department of State Appropriations Act, 1984 (Public Law 98–166) appropriated \$23,625,000 for “International Commissions” during fiscal year 1984, itemized in the following manner: International Boundary and Water Commission, United States and Mexico (salaries and expenses)—\$10,651,000 and (construction)—\$672,000; American sections, international commissions—\$3,426,000; and international fisheries commissions—\$8,876,000.

Title II of the Second Supplemental Appropriations Act, 1984 (Public Law 98–396) appropriated additional funds for increased pay costs during fiscal year 1984 for “International Commissions” as follows: International Boundary and Water Commission, United States and Mexico—\$125,000; and American Sections, international commissions—\$38,000.

⁶The Department of State Appropriations Act, 1985 (title III of Public Law 98–411) appropriated \$27,185,000 for “International Commissions” during fiscal year 1985, itemized in the following manner: International Boundary and Water Commission, United States and Mexico—\$12,000,000 (salaries and expenses) and \$2,400,000 (construction); American sections, international commissions—\$3,685,000; and international fisheries commissions—\$9,100,000.

(4) For “Migration and Refugee Assistance”, \$344,500,000 for the fiscal year 1984⁷ and \$326,400,000 for the fiscal year 1985.⁸

(5) For “United States Bilateral Science and Technology Agreements”, \$1,700,000 for the fiscal year 1984⁹ and \$1,700,000 for the fiscal year 1985.

IMPROVEMENT OF CONSULAR FACILITIES IN MEXICO CITY

SEC. 103. In addition to the amounts authorized to be appropriated by section 102(1) of this Act, there are authorized to be appropriated for “Administration of Foreign Affairs” for the fiscal year 1984, \$4,000,000 to be used for the purchase of land for and the construction of additional consular facilities, and for certain improvements in existing consular facilities, at the United States Embassy in Mexico City, Mexico.

ADDITIONAL POSITIONS FOR POLITICAL AND ECONOMIC REPORTING AND FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY

SEC. 104. The Secretary of State shall allocate such funds as may be necessary of the amounts appropriated to the Department of State for the fiscal year 1984 for “Administration of Foreign Affairs” in order to fund 73 additional positions for political and economic reporting and 11 additional positions for international communications and information policy. The positions funded pursuant to this section shall be in addition to the positions which the Department was authorized to have in fiscal year 1983 plus the number of additional positions which have been requested for the Department for the fiscal year 1984.

ALTERNATE COMMUNICATIONS CENTER

SEC. 105. Of the funds authorized to be appropriated under paragraph (1) of section 102, not less than \$3,000,000 for the fiscal year 1984 and not less than \$7,000,000 for the fiscal year 1985 shall be available only to cover expenses related to the establishment in the State of Maryland of an alternative communications center for the Department of State in order to secure the uninterrupted transmission of communications related to the foreign policy and national security interests of the United States and of communications of other departments and agencies of the United States.

⁷The Foreign Assistance Appropriations Act, 1984 (sec. 101(b)(1) of Public Law 98–151) appropriated \$323,000,000 for “Migration and Refugee Assistance” during fiscal year 1984.

In addition, supplemental funds for migration and refugee assistance during fiscal year 1984 were provided in two acts, as follows: Supplemental Appropriations, 1984 (Public Law 98–332)—\$7,000,000 for assistance to displaced persons in El Salvador; and Second Supplemental Appropriations Act, 1984 (Public Law 98–396)—\$7,650,000, of which \$2,000,000 is available for “International disaster assistance” for medical and medically related assistance for Afghan refugees.

⁸The Foreign Assistance Appropriations Act, 1985 (sec. 101(g) of the Continuing Appropriations Act, 1985; (Public Law 98–473) appropriated \$325,500,000 for “Migration and Refugee Assistance” during fiscal year 1985.

The Supplemental Appropriations Act, 1985 (Public Law 99–88, 99 Stat 329) transferred and additional amount of \$12,500,000 for “migration and refugee assistance” from the “Economic Support Fund” for Lebanon as provided in Public Law 98–63: *Provided*, That this amount shall be available only for Soviet, Eastern European and other refugees resettling in Israel.

⁹The Department of State Appropriations Act, 1984 (Public Law 98–166) appropriated \$1,683,000 for “United States Bilateral Science and Technology Agreements” during fiscal year 1984.

NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION

SEC. 106. (a) Section 5 of the joint resolution entitled “Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor”, approved July 30, 1946 (22 U.S.C. 287q), is amended by repealing the eighth sentence.

(b) Of the amounts authorized to be appropriated for “Administration of Foreign Affairs” by section 102(1) of this Act, \$250,000 for each of the fiscal years 1984 and 1985 shall be available only for the expenses of the secretariat of the National Commission on Educational, Scientific, and Cultural Cooperation.

COORDINATING COMMITTEE ON EXPORT CONTROLS

SEC. 107. Of the funds authorized to be appropriated for the fiscal year 1984 under paragraph (2) of section 102, \$2,000,000 shall be used to modernize the facilities and operating procedures of the Coordinating Committee on Export Controls. The Congress finds that the executive branch should seek cost sharing arrangements with other member countries to modernize both the facilities and operations of the Coordinating Committee on Export Controls.

WORLD HERITAGE TRUST FUND

SEC. 108. Of the funds authorized to be appropriated by paragraph (2) of section 102, not less than \$248,500 for each of the fiscal years 1984 and 1985 shall be available only for the United States contribution to the World Heritage Trust Fund.

INTERPARLIAMENTARY GROUPS

SEC. 109. (a)¹⁰ * * *

(b) There are authorized to be appropriated each fiscal year \$50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in¹¹ meeting the expenses of the United States Group¹² of the British-American Parliamentary Group.¹² Amounts appropriated under this section are authorized to remain available until expended.

(c)¹³ There are authorized to be appropriated for each fiscal year \$50,000 for expenses of United States participation in the Trans-

¹⁰ Subsec. (a) amended the Act of July 11, 1956 (22 U.S.C. 1928e) authorizing U.S. participation in parliamentary conferences of the North Atlantic Treaty Organization. For text of this Act, see *Legislation on Foreign Relations Through 2001*, vol. IV, sec. N.

¹¹ Sec. 304(b)(1) of the Department of State Appropriations Act (Public Law 101–515; 104 Stat. 2128) struck out “Of the amount appropriated for the purposes authorized by the amendment made by subsection (a) of this section, up to \$25,000 may be used to meet the expenses incurred in hosting the spring 1984” and inserted in lieu thereof “There are authorized to be appropriated each fiscal year \$50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in”.

¹² Sec. 304(b)(2) of the Department of State Appropriations Act (Public Law 101–515; 104 Stat. 2128) inserted “the expenses of the United States Group” after “meeting”.

Sec. 304(b)(3) and (4) of that Act, respectively, struck out “which is to be held in the United States” after “Group”, and added the last sentence.

¹³ 22 U.S.C. 276 note. Sec. 701(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out “United States-European Community Interparliamentary Group” and inserted in lieu thereof at the end of the sentence

atlantic Legislators' Dialogue (United States-European Union Interparliamentary Group).

PIRACY IN THE GULF OF THAILAND

SEC. 110. Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 102(4) of this Act, \$5,000,000 for each of the fiscal years 1984 and 1985 shall be used for assistance to combat piracy in the Gulf of Thailand.

RELIEF ASSISTANCE FOR EL SALVADOR AND LEBANON

SEC. 111. Notwithstanding any other provision of law, of the funds authorized to be appropriated for fiscal year 1984 under section 102(4) of this Act—

- (1) \$10,000,000 shall be available only for El Salvador for relief assistance for displaced persons; and
- (2) up to \$25,000,000, but not less than \$5,000,000 shall be available only for Lebanon for relief and rehabilitation assistance for refugees and displaced persons.

WORLD INTELLECTUAL PROPERTY ORGANIZATION

SEC. 112. The joint resolution entitled "Joint Resolution to authorize appropriations incident to United States participation in the International Bureau for the Protection of Industrial Property", approved July 12, 1960 (22 U.S.C. 269(f)), is amended by striking out all after the resolving clause and inserting in lieu thereof the following: "That funds appropriated to the Secretary of State for 'International Organizations and Conferences' shall be available for the payment by the United States of its proportionate share of the expenses of the International Bureau for the Protection of Industrial Property for any year after 1981 as determined under article 16(4) of the Paris Convention for the Protection of Industrial Property, as revised, except that in no event shall the payment for any year exceed 6.6 percent of all expenses of the Bureau apportioned among countries for that year."

RESTRICTION ON ASSESSED PAYMENTS TO THE UNITED NATIONS

SEC. 113. None of the funds authorized to be appropriated by this Act shall be used to make assessed payments to the United Nations, the United Nations Educational, Scientific, and Cultural Organization, the World Health Organization, the Food and Agriculture Organization, and the International Labor Organization which, in the aggregate, are in excess of the aggregate calendar year 1983 United States assessed contributions to such organizations.

"Transatlantic Legislators' Dialogue (United States-European Union Interparliamentary Group)". Previously, sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207), extensively amended subsec. (c), to take effect October 1, 1988. It formerly read as follows:

"Of the amounts authorized to be appropriated for each fiscal year for 'International Organizations and Conferences' \$50,000 may be used for expenses of United States participation in the United States-European Community Interparliamentary Group."

Subsec. (c) was amended previously by sec. 7(b) of Public Law 99-415 (100 Stat. 949).

RESTRICTIONS RELATING TO THE PALESTINE LIBERATION ORGANIZATION AND THE SOUTH WEST AFRICA PEOPLE'S ORGANIZATION

SEC. 114.¹⁴ (a) Funds appropriated for any fiscal year for the Department of State for "International Organizations and Conferences" may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (for any similar successor entity);

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (for any similar successor entity);

(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);

(4) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization;

¹⁴22 U.S.C. 287e note. Sec. 705 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331), added subpar. (3) and redesignated the subpars. that follow. Subpars. (5), (6) and (7) were originally added as subpars. (4), (5), and (6) respectively by sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 405).

Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 114 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in the Middle East Peace Facilitation Act of 1994 (part E of Public Law 103–236) and the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued such a certification in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900); see secs. 538(d), 551, 554, and 562. See also sec. 574 of that Act, which prohibits assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 99–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination No. 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); and through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585).

(5) 25 percent of the amount budgeted for that year for the Second Decade to Combat Racism and Racial Discrimination;

(6) 25 percent of the amount budgeted for any other United Nations agency or conference whose sole or partial purpose is to implement the provisions of General Assembly Resolution 33/79; and

(7) 25 percent of the amount budgeted for the General Assembly-approved \$73,500,000 conference center to be constructed for the Economic Commission for Africa (ECA) in the Ethiopian capital of Addis Ababa.

(b) Funds appropriated for any fiscal year for the Department of State for “International Organizations and Conferences” may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People’s Organization.

(c) The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing benefits to the Palestine Liberation Organization or to the South West Africa People’s Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations or its specialized agencies for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits.

UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS
ILLEGALLY EXPELLED

SEC. 115.¹⁵ (a) The Congress finds that—

(1) the United Nations was founded on the principle of universality;

(2) the United Nations Charter stipulates that members may be suspended by the General Assembly only “upon the recommendation of the Security Council”; and

(3) any move by the General Assembly that would illegally deny Israel its credentials in the Assembly would be a direct violation of these provisions of the Charter.

(b)¹⁶ If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any

¹⁵ 22 U.S.C. 287e note.

¹⁶ The first sentence of subsec. (b) was amended and restated by sec. 704 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331). It formerly read as follows:

“If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in the General Assembly of the United Nations or any specialized

principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed. The United States shall reduce its annual assessed contribution to the United Nations or such specialized agency by 8.34 percent for each month in which United States participation is suspended pursuant to this section.¹⁷ Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency.¹⁸

REVIEW OF UNITED STATES PARTICIPATION IN THE UNITED NATIONS

SEC. 116. (a) The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as a founding member of the United Nations and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security;

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded.

(b) It is the sense of the Congress that—

(1) a review of United States participation in the United Nations is urgently called for with a view to examining—

(A) the extent and levels of United States financial contributions to the United Nations;

(B) the importance of the United Nations, as presently constituted, to fulfilling the policies and objectives of the United States;

(C) the benefits derived by the United States from participation in the United Nations;

(2) the President should review and make recommendations to the Congress regarding the matters described in this section by June 30, 1984; and

(3) the Secretary of State should communicate to the member states of the General Assembly of the United Nations the policy contained in this section.

SEC. 117.¹⁹ * * * [Repealed—1994]

agency of the United Nations, the United States shall suspend its participation in the General Assembly or such specialized agency until the illegal action is reversed.”

¹⁷Sec. 142 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 405), substituted this sentence in lieu of: “The United States shall withhold payment of its assessed contribution to the United Nations or a specialized agency during any period in which United States participation is suspended pursuant to this section.”

¹⁸The last sentence of subsec. (b) was added by sec. 704(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331).

¹⁹Formerly at 22 U.S.C. 287b note. Repealed by sec. 139(27) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 399). Had required a report on policies pursued by other countries in international organizations.

1985 CONFERENCE—UNITED NATIONS DECADE FOR WOMEN

SEC. 118. The President shall use every available means at his disposal to ensure that the 1985 Conference to commemorate the conclusion of the United Nations Decade for Women is not dominated by political issues extraneous to the goals of the 1985 Women's Conference that would jeopardize United States participation in and support for that Conference consistent with applicable legislation concerning United States contributions to the United Nations. Prior to the 1985 Conference, the President shall report to the Congress on the nature of the preparations, the adherence to the original goals of the Conference, and the extent of any continued United States participation and support for the Conference.

UNITED NATIONS WORLD ASSEMBLY ON AGING

SEC. 119. (a) The Congress finds that—

(1) in 1977 the Congress called for the United Nations to convene a World Assembly on Aging;

(2) the United Nations World Assembly on Aging was held in Vienna, Austria, from July 26 to August 6, 1982, and unanimously adopted the Vienna International Plan of Action on Aging on August 6, 1982, which called for the development of policies designed to enhance the individual lives of the aging and to allow the aging to enjoy their advancing years in peace, health, and security;

(3) the United Nations General Assembly on December 3, 1982, unanimously endorsed the World Assembly International Plan of Action; and

(4) the General Assembly of the United Nations, in adopting the plan, called upon governments to make continuous efforts to implement the principles and recommendations contained in the Plan of Action as adopted by the World Assembly on Aging.

(b) Therefore, it is the sense of the Congress that the President should take steps to—

(1) encourage government-wide participation in implementing the recommendations of the World Assembly and planning for the scheduled review in 1985 by the United Nations on the implementation of the Vienna International Plan of Action on Aging;

(2) encourage the exchange of information and the promotion of research on aging among the States, the Federal Government, international organizations, and other nations;

(3) encourage greater private sector involvement in responding to the concerns of the aging; and

(4) inform developing nations that the United States Government recognizes aging as an important issue, requiring close and sustained attention in national and regional development plans.

* * * * *

COUNSELOR OF THE DEPARTMENT OF STATE

SEC. 125. (a)²⁰ * * *

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting immediately after the item relating to the Under Secretaries of State the following:

“Counselor of the Department of State.”.

(2) Section 5315 of such title is amended by striking out “Counselor of the Department of State.”

* * * * *

FOREIGN NATIONAL EMPLOYEES

SEC. 127. (a)²¹ * * *

(b)²² (1) Section 5944 of title 5, United States Code, is repealed.

(2) The chapter analysis for chapter 59 of such title 5 is amended by striking out the item relating to section 5944.

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MERGER OF FOREIGN SERVICE INFORMATION CORPS WITH FOREIGN SERVICE CORPS

SEC. 130.²³ (a) * * *

(b) * * *(c) * * * [Repealed—1994]

DANGER PAY

SEC. 131.²⁴ Section 5928 of title 5, United States Code, is amended by adding at the end thereof the following: “The presence of non-essential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.”.

* * * * *

²⁰ Subsec. (a) amended sec. 2 of “An Act to strengthen and improve the organization and administration of the Department of State” (22 U.S.C. 2653) in order to remove the Counselor of the Department of State from equal rank with Assistant Secretaries so that the Counselor would rank equally with the Under Secretaries. The amendments in subsec. (b) to title 5, U.S.C., changed the salary level of the Counselor from Executive Level IV to Executive Level III.

²¹ Subsec. (a) amended sec. 408(a)(1) of the Foreign Service Act of 1980 in order to clarify the Secretary of State’s authority to utilize provident funds (retirement benefits) for foreign national employees of the United States Government.

²² 5 U.S.C. 5944 concerned payment of burial expenses for foreign national employees of the United States Government. This provision was superseded by sec. 408 of the Foreign Service Act of 1980.

²³ Subsecs. (a) and (b) amended secs. 102 and 502, respectively, of the Foreign Service Act of 1980. These provisions changed the designation of members of the Foreign Service Information Officers to Foreign Service Officers and directed the Secretary of State to implement policies to insure that Foreign Service Officers from all agencies are able to compete for chief of missions positions on an equal basis.

Subsec. (c), requiring a report in policies and procedures adopted pursuant to the above amendments, was repealed by sec. 139(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398).

²⁴ 5 U.S.C. 5928 concerned danger pay allowances for United States Government employees serving in certain foreign areas.

FOREIGN RELATIONS PUBLICATIONS

SEC. 133. (a) The Congress expresses concern about the excessive delays currently experienced in the publication of the Department of State's vital series of historical volumes, "The Foreign Relations of the United States". It is the sense of the Congress that the current delays must be substantially reduced so that publication of this series will occur after twenty years, and no later than twenty-five years, from the date of the events themselves.

(b) The Historian of the Department of State shall prepare and submit a report within three months after the date of enactment of this Act to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²⁵ of the House of Representatives explaining the reasons for these delays and the steps which would be required to reach the goal of publication within twenty-five years.

UNITED STATES DIPLOMATIC RELATIONS WITH THE VATICAN

SEC. 134.²⁶ In order to provide for the establishment of United States diplomatic relations with the Vatican, the Act entitled "An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the Year ending thirtieth June, eighteen hundred and sixty-eight, and for other purposes", approved February 28, 1867, is amended by repealing the following sentence (14 Stat. 413): "And no money hereby or otherwise appropriated shall be paid for the support of an American legation at Rome, from and after the thirtieth day of June, eighteen hundred and sixty-seven."

USE OF HERBICIDES CONTAINING DIOXIN COMPOUNDS BY INTERNATIONAL COMMISSIONS

SEC. 135. (a) Notwithstanding any other provision of law, none of the funds made available under this Act for "International Commissions" for the fiscal year 1984 and the fiscal year 1985 shall be available for the use, by such commissions or their agents, of herbicides containing dioxin compounds.

(b) Unless the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate, the Committee on Foreign Affairs²⁵ of the House of Representatives, and the Governors of the affected border States are notified forty-five days in advance of the use of a herbicide by an international commission, funds appropriated for such use shall not be available for obligation or expenditure. Such notification shall include—

- (1) the name of the herbicide;
- (2) an estimate of the quantity of herbicide planned for use;
- (3) an identification of the area on which the herbicide will be used; and
- (4) a description of the herbicide's chemical composition.

* * * * *

²⁵Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁶22 U.S.C. 2656 note.

TITLE II—UNITED STATES INFORMATION AGENCY²⁷

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TITLE III—BOARD FOR INTERNATIONAL BROADCASTING²⁸

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TITLE IV—THE ASIA FOUNDATION²⁹

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TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY³⁰

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TITLE VI—FOREIGN MISSIONS³¹

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TITLE VII—INTERNATIONAL ENVIRONMENTAL
PROTECTION³²

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TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EU-
ROPE AND THE INDEPENDENT STATES OF THE FORMER
SOVIET UNION³³

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TITLE IX—UNITED STATES-INDIA FUND FOR CULTURAL,
EDUCATIONAL, AND SCIENTIFIC COOPERATION³⁴

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TITLE X—MISCELLANEOUS PROVISIONS

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TERMINATION OF ASSISTANCE PROGRAMS FOR SYRIA

SEC. 1004.³⁵ (a) After the enactment of this section, funds available to the Agency for International Development may not be used for any payment or reimbursement of any kind to the Government of Syria or for the delivery of any goods or services of any kind to the Government of Syria.

²⁷For free-standing provisions of this title, see page 1312.

²⁸This title contained amendments to the Board for International Broadcasting Act of 1973 and free-standing provisions. See page 1513.

²⁹Title IV is cited as the Asia Foundation Act. For text, see page 1212.

³⁰Title V is cited as the National Endowment for Democracy Act. For text, see page 1405.

³¹Title VI contained amendments to the Diplomatic Relations Act and to the State Department Basic Authorities Act of 1956. Free-standing provisions in the title are cited as the Foreign Missions Amendments Act of 1983.

³²Title VII amended the Foreign Assistance Act of 1961, the Mutual Educational and Cultural Exchange Act of 1961, and is cited as the International Environmental Protection Act of 1983. For text, see *Legislation on Foreign Relations Through 2001*, vol. IV, sec. L.

³³Title VIII, formerly cited as the Soviet-Eastern European Research and Training Act of 1983, was extensively amended by Public Law 103–199.

³⁴Title IX is cited as the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act.

³⁵22 U.S.C. 2346a note.

(b) The Administrator of the Agency for International Development shall deobligate all funds which have been obligated for Syria under the Foreign Assistance Act of 1961 prior to the enactment of this section, except that—

(1) such funds may continue to be used to finance the training or studies outside of Syria of students whose course of study began before the enactment of this section;

(2) the Administrator may adopt as a contract of the United States Government any contract with a United States or third-country contractor which would otherwise be terminated pursuant to this subsection, and may assume in whole or in part any liabilities arising under such contract, except that the authority provided by this paragraph may be exercised only to the extent that budget authority is available to meet the obligations of the United States under such contracts; and

(3) amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955,³⁶ as having been obligated for Syria under chapter 4 of part II of the Foreign Assistance Act of 1961 shall continue to be available until expended to meet necessary expenses arising from the termination of assistance programs for Syria pursuant to this subsection.

PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE IN
KAMPUCHEA

SEC. 1005.³⁷ (a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Kampuchea or elsewhere in Indochina.

(b) All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Kampuchea people.

RAOUL WALLENBERG AND JAN KAPLAN

SEC. 1006. (a) The Congress finds that—

(1) the Soviet Union arrested one of the great heroes of modern times in 1945 when they arrested Raoul Wallenberg;

(2) Raoul Wallenberg was a Swedish diplomat who, at great personal risk, had acted to save hundreds of thousands of Hungarian Jews from the Nazi Holocaust;

(3) Raoul Wallenberg took these actions as a humanitarian and with the knowledge, consent, and financial assistance of the United States Government;

³⁶ 31 U.S.C. 1108.

³⁷ 22 U.S.C. 2151 note.

(4) Raoul Wallenberg has recently been made an honorary citizen of the United States;

(5) the Soviet Union has changed their story a number of times about the whereabouts of Raoul Wallenberg;

(6) the most recent position of the Soviet Union is that he died in 1947;

(7) there are many eyewitnesses who have testified that they saw Raoul Wallenberg in Russian prisons and hospitals in the decades since the 1940's;

(8) one of the most recent eyewitnesses was Jan Kaplan, a Russian refusenik who shortly after his release from a Soviet jail in 1977, phoned his daughter, Doctor Anna Bilder, in Israel and reported that he had met a Swede in prison who had survived thirty years in the Gulag;

(9) during the next two years, Anna Bilder received no further word from or about her father;

(10) in July 1977, Jan Kaplan's wife smuggled a letter to Doctor Bilder informing her that Jan Kaplan had been re-arrested because of a letter he had tried to smuggle to her about Raoul Wallenberg;

(11) in 1980, the Swedish Government sent an official request to interview Jan Kaplan;

(12) the Soviets made no response to this request;

(13) the whereabouts of Jan Kaplan are not known; and

(14) Jan Kaplan could provide valuable information about Raoul Wallenberg.

(b) It is the sense of the Congress that the President, acting directly or through the Secretary of State, should take all possible steps at all appropriate times to ascertain that whereabouts of Jan Kaplan and to request an interview with him in order to learn more concerning the whereabouts of Raoul Wallenberg.

POLICY TOWARD THE EXPORT OF NUCLEAR-RELATED EQUIPMENT, MATERIALS, OR TECHNOLOGY TO INDIA, ARGENTINA, AND SOUTH AFRICA

SEC. 1007. (a) It is the sense of Congress that the United States Government should disapprove the export of, and should suspend or revoke approval for the export of, any nuclear-related equipment, material, or technology, including nuclear components and heavy water, to the Government of India, Argentina, or South Africa until such time as such government gives the Government of the United States stronger nuclear nonproliferation guarantees. Such guarantees should include—

(1) reliable assurances by such government that it is not engaged in any program leading to the development, testing, or detonation of nuclear explosive devices; and

(2) agreement by such government to accept international safeguards on all its nuclear facilities.

(b) If the President determines, in the case of India's Tarapur reactor, while it is under International Atomic Energy Agency inspection, that certain equipment or non-nuclear material or technology is necessary for humanitarian reasons to protect the health and safety of operations and is not available from a foreign supplier,

the President may authorize the export of such equipment or non-nuclear material or technology.

ACID RAIN

SEC. 1008. (a) The Congress finds the following:

(1) Acid deposition, commonly known as “acid rain” is believed to have caused serious damage to the natural environment in large parts of Canada and the United States and has raised justified concerns among citizens of both countries.

(2) Acid rain is believed to have caused billions of dollars of damage annually to both natural and man-made materials. It damages crops and the forest which support 25 percent of the Canadian economy and much of our own. It threatens marine life in fresh water lakes, rivers, and streams.

(3) The principal sources of acid rain are believed to be emissions resulting from power generation, industrial production, mineral smelters, and automobile transportation which originate in both the United States and Canada and which affect the environment of the other.

(4) Section 612 of the Foreign Relations Authorization Act, Fiscal Year 1979, called upon the President to “make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources”.

(5) On August 5, 1980, the Governments of Canada and the United States signed a Memorandum of Intent committing both parties “to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution,” and, as an interim action, committing both parties to “promote vigorous enforcement of existing laws and regulations” and “to develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them”.

(6) The Government of Canada has made a formal offer to reduce eastern emissions of sulfur dioxide by 50 percent by 1990 should the United States make a comparable commitment.

(7) Both the United States and Canada have taken steps to reduce transboundary pollutants. Present United States air emission standards are the most stringent in the world. In the past decade, the United States has reduced sulfur dioxide emissions by 15 percent. However, the failure of the United States to respond in a timely manner to concerns about transboundary air pollution would harm the historically close relations between the United States and Canada.

(8) The strategies and techniques adopted to control air pollution emissions should weigh heavily on the employment and other economic effects on employment in the United States and Canada of the acid precipitation, electricity generation, manufacture, distribution and installation of pollution control equip-

ment, and any curtailment of emission producing industrial activity.

(b) It is therefore the sense of the Congress that the President should—

(1) respond constructively to the Canadian offer on air pollution emissions;

(2) proceed to negotiate as expeditiously as possible a bilateral agreement with Canada providing for significant reductions in transboundary air pollution while keeping economic dislocations in both countries to the minimum possible; and

(3) consider prompt initiation of a joint Government-supported program to develop new cost-effective technologies that will facilitate reduction of sulfur dioxide emissions and other copollutants;

(4) instruct the Secretary of State to report to the Congress no later than December 1, 1983, on the progress toward achieving a new transboundary air pollution agreement, including a cooperative program on new technologies.

INTERNATIONAL AGREEMENTS ON NATURAL GAS

SEC. 1009. (a) The Congress finds that—

(1) the foreign policy and economic well-being of the United States depend on mutually beneficial relationships with our trading partners throughout the world;

(2) America's present economic difficulties have been caused in part by the huge increases in the price of energy, especially imported energy, during the 1970's;

(3) at a time when prices for other forms of energy are stabilizing or falling, the burner-tip price of natural gas continues to rise throughout the United States;

(4) the high price of natural gas is a severe hardship for low-income persons, the elderly, the agricultural industry, small businesses, and other consumers without alternative fuel sources;

(5) high-priced imported natural gas is a major factor contributing to these price increases;

(6) imports of high-priced natural gas continue at prices above fair market levels, despite the increased availability of uncommitted and ample supplies of lower priced domestic gas;

(7) it is in the interest of the United States to continue to import natural gas from secure sources in whatever quantity consumers require, as long as the price is fair;

(8) the principles of free and fair international trade require that natural gas prices and terms of trade be made fair to all trading partners; and

(9) the immediacy of this problem requires the prompt and serious attention of all parties involved.

(b) It is the sense of the Congress that—

(1) the United States Government should move immediately to promote lower prices and fair market conditions for imported natural gas; and

(2) within thirty days after the date of enactment of this section, the Secretary of State, with the assistance of the Sec-

retary of Energy, should prepare and transmit to the Congress a report on the progress made in achieving lower prices and fair market conditions for imported natural gas.

PREPUBLICATION REVIEW OF WRITINGS OF FORMER FEDERAL
EMPLOYEES

SEC. 1010. The head of a department or agency of the Government may not, before April 15, 1984, enforce, issue, or implement any rule, regulation, directive, policy, decision, or order which (1) would require any officer or employee to submit, after termination of employment with the Government, his or her writings for prepublication review by an officer or employee of the Government, and (2) is different from the rules, regulations, directives, policies, decisions, or orders (relating to prepublication review of such writings) in effect on March 1, 1983.

* * * * *

EXTENDED VOLUNTARY DEPARTURE STATUS FOR CERTAIN EL
SALVADORANS

SEC. 1012. (a) The Congress finds that—

(1) ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life-threatening situations for innocent nationals of El Salvador;

(2) thousands of El Salvadoran nationals have fled from El Salvador and entered the United States since January 1980;

(3) currently the United States Government is detaining these nationals of El Salvador for the purpose of deporting or otherwise returning them to El Salvador, thereby irreparably harming the foreign policy image of the United States;

(4) deportation of these nationals could be temporarily suspended, until it became safe to return to El Salvador, if they are provided with extended voluntary departure status; and

(5) such extended voluntary departure status has been granted in recent history in cases of nationals who fled from Vietnam, Laos, Iran, and Nicaragua.

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

(1) the Secretary of State should recommend that extended voluntary departure status be granted to aliens—

(A) who are nationals of El Salvador,

(B) who have been in the United States since before January 1, 1983,

(C) who otherwise qualify for voluntary departure (in lieu of deportation) under section 242(b) or 244(e) of the Immigration and Nationality Act (8 U.S.C. 1252(b) and 1254(e)), and

(D) who were not excludable from the United States at the time of their entry on any ground specified in section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) other than the grounds described in paragraphs (14), (15), (20), (21), and (25); and

(2) such status should be granted to those aliens until the situation in El Salvador has changed sufficiently to permit their safely residing in that country.

EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTIONS AND BILLS

SEC. 1013.³⁸ Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.

³⁸ 50 U.S.C. 1546a.

p. Department of State Authorization Act, Fiscal Years 1982 and 1983

Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982, as amended by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1030, approved November 22, 1983; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the “Department of State Authorization Act, Fiscal Years 1982 and 1983”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", \$1,245,637,000 for the fiscal year 1982¹ and \$1,248,059,000 for the fiscal year 1983.²

(2) For "International Organizations and Conferences", \$503,462,000 for the fiscal year 1982³ and \$514,436,000 for the fiscal year 1983.⁴

(3) For "International Commissions", \$19,808,000 for the fiscal year 1982⁵ and \$22,432,000 for the fiscal year 1983.⁶

¹Sec. 101(h) of Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$1,176,381,000 for the "Administration of Foreign Affairs" during fiscal year 1982, itemized in the following manner: salaries and expenses—\$890,758,000; representation allowances—\$3,570,000; acquisition, operation, and maintenance of buildings abroad—\$185,970,000; acquisition, operation and maintenance of buildings abroad (special foreign currency program)—\$9,102,000; emergencies in the diplomatic and consular service—\$4,400,000; buying power maintenance—\$1,500,000; payment to the American Institute in Taiwan—\$7,884,000; and payment to the Foreign Service Retirement and Disability Fund—\$73,197,000.

Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 819 at 822), provided the following additional amounts: salaries and expenses—\$37,978,000, of which \$31,228,000 shall remain available until Sept. 30, 1984; acquisition, operation, and maintenance of buildings abroad—\$17,655,000, to remain available until Sept. 30, 1984; payment to the American Institute in Taiwan—\$244,000; and payment to the Foreign Service Retirement and Disability Fund—\$4,615,000.

²Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1876), and S. 2956, as reported in the Senate on Sept. 24, 1982, and made part of Public Law 97-377, appropriated \$1,310,232,000 for "Administration of Foreign Affairs" during fiscal year 1983, itemized in following manner: salaries and expenses—\$995,000,000; reopening consulates—\$1,000,000; representation allowances—\$3,876,000; acquisition, operation, and maintenance of buildings abroad—\$193,040,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$8,360,000; emergencies in the diplomatic and consular service—\$4,400,000; buying power maintenance—\$4,500,000; payment to the American Institute in Taiwan—\$8,744,000; and payment to the Foreign Service Retirement and Disability Fund—\$91,312,000.

In addition to the regular fiscal year 1983 appropriation of \$1,310,232,000 for the "Administration of Foreign Affairs" contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided the following amounts: salaries and expenses—\$7,985,000; acquisition, operation, and maintenance of buildings abroad—\$22,256,000; payment to the Foreign Service Retirement and Disability Fund—\$4,658,000; and salaries and expenses (increased pay costs)—\$21,711,000, of which \$8,111,000 was derived by transfer from contributions to the international organizations.

³Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183) and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$466,462,000 for "International Organizations and Conferences" during fiscal year 1982 itemized in the following manner: contributions to international organizations—\$398,240,000 including funds for the payment of assessed contributions to the Pan American Health Organization, and to reimburse the Pan American Health Organization for payments under the tax equalization program for employees who are U.S. citizens; contributions for international peacekeeping activities—\$60,938,000; international conferences and contingencies—\$7,284,000.

⁴Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on Sept. 24, 1982, and made part of Public Law 97-377, appropriated \$526,915,000 for "International Organizations and Conferences" during fiscal year 1983 itemized in the following manner: contributions to international organizations—\$444,315,000, of which \$12,506,000 shall be for payment of the full 1983 assessed contributions to the Inter-American Institute for Cooperation on Agriculture; contributions for international peacekeeping activities—\$73,400,000, of which not more than \$50,000,000 shall be available for contributions to a United Nations Transition Assistance Group, upon a determination by the President; and international conferences and contingencies—\$9,200,000.

⁵Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$20,197,000 for "International Commissions" during fiscal year 1982 itemized in the following manner: International Boundary and Water Commission, United States and Mexico, salaries and expenses—\$7,927,000, and for detailed plan preparation and construction of authorized projects—\$1,186,000; American sections, international commissions—\$2,847,000; and international fisheries commissions—\$8,237,000. Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 819 at 823) provided the following additional amounts: American Sections, International Commissions—\$95,000 for the International Joint Commission to remain available until Sept. 30, 1983.

⁶Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated \$20,198,000 for "International Commissions" during fiscal year 1983 itemized in the following manner: International Boundary and Water Commission, United

(4) For "Migration and Refugee Assistance", \$504,100,000 for the fiscal year 1982⁷ and \$460,000,000 for the fiscal year 1983.⁸

REOPENING CERTAIN UNITED STATES CONSULATES

SEC. 103. (a) Notwithstanding any other provision of law, \$400,000 of the funds available for the fiscal year 1982 for "Salaries and Expenses" of the Department of State are hereby reprogrammed for, and shall be used by the Department for, the expenses of operating and maintaining the consulates specified in subsection (c) of this section.⁹

(b) None of the funds made available under this or any other Act for "Administration of Foreign Affairs" may be used for the establishment or operation of any United States consulate that did not exist on the date of enactment of this Act (other than the consulates specified in subsection (c)) until all the United States consulates specified in subsection (c) have been reopened as required by section 108 of the Department of State Authorization Act, Fiscal

States and Mexico—\$8,754,000; American sections, international commissions—\$2,918,000; and international fisheries commissions—\$8,526,000.

In addition to the regular fiscal year 1983 appropriation of \$20,198,000 contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided \$174,000 for the International Boundary and Water Commission, United States and Mexico, for increased pay costs.

⁷Foreign Assistance and Related Programs Appropriations Act, 1982 (Public Law 97-121; 95 Stat. 1652), provided the following:

"MIGRATION AND REFUGEE ASSISTANCE

"For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$503,000,000: *Provided*, That \$30,000,000 of this amount shall be transferred to the Agency for International Development to be used only for resettlement services and facilities for refugees and displaced persons in Africa: *Provided further*, That \$5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981: *Provided further*, That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere: *Provided further*, That not more than \$7,426,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State."

⁸Appropriations for "Migration and Refugee Assistance", as well as all foreign assistance programs, during fiscal year 1983 are included in the Further Continuing Appropriations Act, 1983 (Public Law 97-377). Under the terms of this Act, appropriations for foreign aid are set at the rates and conditions provided in Public Law 97-121, Foreign Assistance Appropriations Act of 1982, except for certain programs. The exceptions to Public Law 97-121 are stated in the Further Continuing Appropriations Act, 1983, which includes the following: "\$395,000,000 for 'Migration and Refugee Assistance' (without applying prior year earmarking of funds)." See footnote 7 above for text of the terms and conditions stipulated in Public Law 97-121 for migration and refugee assistance.

⁹Sec. 307 of Supplemental Appropriations Act, 1982, (Public Law 97-257; 96 Stat. 875) provided the following:

"SEC. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes, unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Years 1980 and 1981, to the extent such reopening is authorized by the foreign government involved.¹⁰

(c) The consulates referred to in subsections (a) and (b) of this section are the consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

RESTRICTIONS RELATING TO PALESTINIAN RIGHTS UNITS AND
PROJECTS PROVIDING POLITICAL BENEFITS TO THE PALESTINE LIB-
ERATION ORGANIZATION

SEC. 104. (a) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity); and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity); and

(3) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(c)¹¹ The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing political benefit to the Palestine Liberation Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies, for projects whose primary purpose is to provide hu-

¹⁰Sec. 139(8) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398), struck out the second sentence in this subsec., which required a report be submitted to the Committees on Foreign Relations and Foreign Affairs concerning the reopening of consulates.

¹¹Sec. 3 of Executive Order 12374 (July 28, 1982; 47 F.R. 32903), as amended by Executive Order 12408 (Feb. 23, 1983; 48 F.R. 8035) stated that the functions vested in the President under this subsection are delegated to the Secretary of State. Executive Order 12408 was revoked by Executive Order 12553.

manitarian, educational, developmental, and other nonpolitical benefits to the Palestinian people.

PAYMENT OF ASSESSED CONTRIBUTIONS FOR CERTAIN INTERNATIONAL ORGANIZATIONS

SEC. 105. (a) Funds authorized to be appropriated for the fiscal year 1982 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1982 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(b) Funds authorized to be appropriated for the fiscal year 1983 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1983 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(c) For purposes of this section, the term “United States contribution” means the United States assessed contribution to the budget of the Organization of American States, the Pan American Health Organization, or the Inter-American Institute for Cooperation on Agriculture, as the case may be, plus amounts required to be paid by the United States or minus amounts credited to the United States (as appropriate) under that organization’s tax equalization program.

INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 106. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$1,500,000 shall be available for the fiscal year 1982 and \$1,500,000 shall be available for the fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for “political” detainees.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 107. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$12,500,000 for the fiscal year 1982 and \$16,875,000 for the fiscal year 1983 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics, from Communist countries in Eastern Europe, and from other countries.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SEC. 108. (a) The Congress finds that—

(1) a free press is vital to the functioning of free governments;

(2) Article 19 of the Universal Declaration of Human Rights provides for the right to freedom of expression and to “seek, receive, and impart information and ideas through any media and regardless of frontiers”;

(3) the Constitution of the United Nations Educational, Scientific and Cultural Organization provides for the promotion of “the free flow of ideas by word and image”;

(4) the signatories of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975) pledged themselves “to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State”; and

(5) government censorship, domination, or suppression of a free press is a danger to free men and women everywhere.

(b) Therefore, it is the sense of the Congress that the United Nations Educational, Scientific and Cultural Organization should cease efforts to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

(c) The Congress opposes efforts by some countries to control access to and dissemination of news.

(d)¹¹ The President shall evaluate and, not later than six months after the date of enactment of this Act, shall report to the Congress his assessment of—

(1) the extent to which United States financial contributions to the United Nations Educational, Scientific and Cultural organization, and the extent to which the programs and activities of that Organization, serve the national interests of the United States;

(2) the programs and activities of the United Nations Educational, Scientific and Cultural Organization, especially its programs and activities in the communications sector; and

(3) the quality of United States participation in the United Nations Educational, Scientific and Cultural Organization, including the quality of United States diplomatic efforts with respect to that Organization, the quality of United States representation in the Secretariat of that Organization, and the quality of recruitment of United States citizens to be employed by that Organization.

Such report should include the President’s recommendations regarding any improvements which should be made in the quality and substance of United States representation in the United Nations Educational, Scientific and Cultural Organization.

RESTRICTION ON CONTRIBUTIONS TO THE UNITED NATIONS
EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SEC. 109.¹² (a) None of the funds authorized to be appropriated by paragraph (2) of section 102 of this Act or by any other Act for “International Organizations and Conferences” may be used for payment by the United States of its contribution toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if that organization implements any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of infor-

¹² 22 U.S.C. 287c note.

mation within or among countries, or to impose mandatory codes of journalistic practice or ethics.

(b) Not later than February 1 of each year, the Secretary of State shall report to the Congress with respect to whether the United Nations Educational, Scientific and Cultural Organization has taken any action described in subsection (a) of this section.

BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

SEC. 110. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$3,700,000 for the fiscal year 1982¹³ and \$3,700,000 for the fiscal year 1983¹⁴ for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

ASIA FOUNDATION

SEC. 111. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$4,500,000 for the fiscal year 1982¹⁵ and \$4,500,000 for the fiscal year 1983¹⁶ for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Amounts appropriated under this section shall be made available to the Asia Foundation by the Secretary of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Secretary and the Foundation.

* * * * *

PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

SEC. 113. Paragraph (1) of the first section of the joint resolution entitled "Joint Resolution to provide for membership of the United States in the Pan American Institute of Geography and History; and to authorize the President to extend an invitation for the next general assembly of the institute to meet in the United States in 1935, and to provide an appropriation for expenses thereof", approved August 2, 1935 (22 U.S.C. 273), is amended by striking out ", not to exceed \$200,000 annually,".

¹³Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$3,700,000 for United States bilateral science and technology agreements during fiscal year 1982.

¹⁴Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated \$1,700,000 for United States bilateral science and technology agreements with Yugoslavia and Poland during fiscal year 1983.

¹⁵Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$3,100,000 for the Asia Foundation during fiscal year 1982.

¹⁶Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on Sept. 24, 1982 and made part of Public Law 97-377, appropriated \$4,100,000 for the Asia Foundation during fiscal year 1983.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 114. Section 2 of the joint resolution entitled “Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor”, approved December 30, 1963 (22 U.S.C. 269g–1), is amended by striking out “, except that” and all that follows through “that year”.

PAN AMERICAN RAILWAY CONGRESS

SEC. 115. Section 2(a) of the joint resolution entitled “Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor”, approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out “Not more than \$15,000 annually” and inserting in lieu thereof “Such sums as may be necessary”.

* * * * *

PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS
TO INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

SEC. 120. (a) Sections 203, 205, 207, and 208 of title 18, United States Code,¹⁷ shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interests of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State (or the Secretary’s designee) certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

(b) As used in this section, the term “international telecommunications meeting or conference” means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.

* * * * *

SEC. 126.¹⁸ * * * [Repealed—1993]

TITLE II—FOREIGN MISSIONS¹⁹

* * * * *

¹⁷These are provisions of the Ethics in Government Act which restrict the movement of individuals between the Government and private sector.

¹⁸Sec. 306 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) repealed sec. 126, relating to scientific exchange activities with the Soviet Union.

¹⁹Title II, cited as the Foreign Missions Act, amended the State Department Basic Authorities Act of 1956 by adding a new title concerning the regulation of foreign missions.

TITLE III—UNITED STATES INFORMATION AGENCY²⁰

* * * * *

TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING²¹

* * * * *

TITLE V—MISCELLANEOUS PROVISIONS

* * * * *

REPORT ON COSTS FOR REFUGEES AND CUBAN AND HAITIAN ENTRANTS

SEC. 502. (a) Not later than 60 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than those described in paragraphs (1) and (2) to assist and provide services for refugees and Cuban and Haitian entrants;

(4) administrative and operating expenses of Federal, State, and local governments that are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term “refugees” is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the term “Cubans and Haitian entrants” means Cuban and Haitians paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under that Act.

* * * * *

INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES

SEC. 504. The Congress expresses its strong support for the promotion by the United States of sound infant feeding practices, and

²⁰ For text of free-standing provisions contained in this title, see page 1317.

²¹ For the most part, title IV contained amendments to the Board for International Broadcasting Act of 1973.

continues to be concerned with the sole negative vote cast by the United States against the International Code of Marketing of Breastmilk Substitutes. The Congress urges the President, in light of congressional concern and of new indications of international support for general implementation of the Code, to review the United States position on the Code prior to the 25th World Health Assembly meeting. The Congress also urges United States infant formula manufacturers to continue to re-examine their own position regarding the Code.

* * * * *

q. Department of State Authorization Act, Fiscal Years 1980 and 1981

Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395, approved August 15, 1979; as amended by Public Law 96-110 [Cambodian Disaster Assistance Authorization Act, H.R. 4955], 93 Stat. 843, approved November 13, 1979; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; and by Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 298, approved August 24, 1982

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

NOTE.—Sections amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the “Department of State Authorization Act, Fiscal Years 1980 and 1981”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts, subject to the limitation in subsection (b):

(1) For “Administration of Foreign Affairs”, \$849,423,000 for the fiscal year 1980 and \$1,009,815,000 for the fiscal year 1981.¹

¹The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$996,385,000 for Admin-

Continued

(2) For "International Organizations and Conferences", \$502,945,000 for the fiscal year 1980 and \$525,082,000 for the fiscal year 1981.²

(3) For "International Commissions", \$26,733,000 for the fiscal year 1980 and \$26,081,000 for the fiscal year 1981.³

(4) For "Migration and Refugee Assistance", \$104,910,000 for the fiscal year 1979 (in addition to amounts otherwise authorized), \$456,241,000 for the fiscal year 1980, and \$517,209,000 for the fiscal year 1981.⁴

(b) The aggregate amount appropriated under paragraphs (1), (2), and (3) of subsection (a) may not exceed \$1,369,401,000 for the fiscal year 1980 and may not exceed \$1,547,778,000 for the fiscal year 1981.

(c) Funds appropriated under paragraph (2) of subsection (a) may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise of the Inalienable Rights of the Palestinian People (or any similar successor entity), and

istration of Foreign Affairs itemized in the following manner: salaries and expenses—\$813,000,000; representation allowances—\$3,125,000; acquisition, operation, and maintenance of buildings abroad—\$118,432,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program—\$8,200,000; emergencies in the Diplomatic and Consular Service—\$5,000,000; payment to the American Institute in Taiwan—\$6,282,000; payment to the Foreign Service Retirement and Disability Fund—\$42,346,000.

²The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$538,110,000 for International Organizations and Conferences itemized in the following manner: contributions to international organizations—\$481,110,000; contributions for international peacekeeping activities—\$50,000,000; international conferences and contingencies—\$7,000,000.

³The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$24,713,000 for International Commissions itemized in the following manner: International Boundary and Water Commission, United States and Mexico—\$13,675,000; American sections, international commissions—\$3,000,000; international fisheries commissions—\$8,038,000.

⁴Sec. 1 of the Cambodian Disaster Assistance Authorization Act (Public Law 96-110; 93 Stat. 843) substituted authorization figures of \$456,241,000 and \$457,798,000 in lieu of the original fiscal years 1980 and 1981 authorizations of \$248,951,000 and \$254,188,000, respectively. The fiscal year 1981 authorization was further increased to \$517,209,000 by sec. 406 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3151).

A foreign assistance appropriation bill was not enacted for fiscal years 1980 or 1981. Since Oct. 1, 1979, programs funded under this appropriation measure operated pursuant to a series of continuing resolutions. The final continuing resolution (H.J. Res. 644, Public Law 96-536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96-787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 * * *" (this conference report was never approved by Congress).

Pursuant to Public Law 96-536, the fiscal year 1981 appropriation for Migration and Refugee Assistance was \$456,241,000.

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 103. Of the amounts authorized to be appropriated by section 102(a)(4) of this Act for the fiscal year 1980 and for the fiscal year 1981, \$25,000,000 for each such fiscal year shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

UNITED STATES-YUGOSLAVIA BILATERAL SCIENCE AND TECHNOLOGY AGREEMENT

SEC. 104. In addition to the amounts authorized to be appropriated by section 102(a) of this Act, there are authorized to be appropriated to the Secretary of State \$1,400,000 for the fiscal year 1980 and \$1,400,000 for the fiscal year 1981⁵ for payment of the United States share of expenses of a five-year bilateral science and technology agreement between the United States and Yugoslavia, following entry into force of such agreement.

* * * * *

EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

SEC. 106. The promotion for each of 64 Foreign Service officers of classes 8 and 7 to the next higher class, as the case may be, for which the Senate gave its advice and consent on March 21, 1979, and which was attested to on March 22, 1979, shall be considered for all purposes to take effect on December 17, 1978. Any payments made in implementation of this section shall be from funds previously authorized and appropriated for the fiscal year 1979.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS⁶

SEC. 107. (a) It is the sense of the Congress that the Secretary of State should—

(1) improve coordination between the Department of State and the Department of Defense and other departments and agencies of the United States operating outside the United States with respect to foreign national pay systems and wage schedules to the extent that—

(A) joint wage surveys and compatible pay schedules are adopted in countries where two or more departments or agencies of the United States directly employ foreign nationals, and

⁵ The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 3, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$1,400,000 for United States-Yugoslavia Bilateral Science and Technology Agreement.

⁶ 22 U.S.C. 899 note.

- (B) Department of Defense wage rates are included in wage surveys of the Department of State where the Department of Defense operates under indirect-hire arrangements;
- (2) monitor the establishment of wage rates outside the United States more closely to insure that United States missions—
- (A) operate under salary schedules that reflect private sector average pay or average pay ranges,
- (B) include the cost of severance in making pay adjustments, and
- (C) survey jobs in the private sector which represent as closely as possible the work force of the mission; and
- (3) substitute, whenever possible, prevailing local retirement plans for civil service retirement with respect to the retirement of foreign nationals employed by the United States.
- (b) * * *

UNITED STATES CONSULATES

SEC. 108. (a) The following United States consulates shall not be closed or, if closed on the date of enactment of this Act, shall be reopened as soon as possible after such date: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

(b) Personnel assigned to the consulates described in subsection (a) shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.

* * * * *

UNITED NATIONS TECHNICAL ASSISTANCE PROGRAMS

SEC. 110. Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Public Law 95-431, 92 Stat. 1021), is amended in the paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" by striking out ", of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies".⁷

TITLE II—INTERNATIONAL COMMUNICATION AGENCY⁸

* * * * *

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING⁹

* * * * *

⁷Such paragraph in Public Law 95-431 appropriated \$327,676,000 for contributions to international organizations but prohibited the use of these funds for technical assistance by the United Nations or any of its specialized agencies. This amendment lifted this prohibition.

⁸For text of freestanding provisions contained in this title, see page 1321.

⁹Title III amended the Board for International Broadcasting Act of 1973.

TITLE IV—MISCELLANEOUS PROVISIONS

* * * * *

CHANGE IN STATUTORY REFERENCE

SEC. 402. Any reference in any provision of law to the Committee on International Relations of the House of Representatives shall be deemed to be a reference to the Committee on Foreign Affairs of the House of Representatives.¹⁰

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

SEC. 403. It is the sense of the Congress that it should be the policy of the United States to promote and encourage cultural, scientific, and economic relations between the Arab Republic of Egypt and the State of Israel.

* * * * *

MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

SEC. 405. (a) The Congress finds and declares that—

(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) the protection and conservation of whales are of particular interest to citizens of the United States;

(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to the whale conservation;

(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

¹⁰ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

(b) The Congress urges—

(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

PRIVATE SECTOR REPRESENTATIVES ON THE UNITED STATES
DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE

SEC. 406. The provisions of sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States Delegation to the World Administrative Radio Conference to be convened in Geneva on September 24, 1979, who is specifically designated to speak on behalf of or otherwise represent the interest of the United States at such Conference with respect to a particular matter, if the Secretary of State or his designee certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All of such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

* * * * *

SEC. 408.¹¹ * * * [Repealed—1982]

¹¹Sec. 505(a)(1) of Public Law 97–241 (96 Stat. 298) repealed sec. 408. It formerly read as follows:

“SANCTIONS AGAINST ZIMBABWE-RHODESIA

“Sec. 408. (a) The Congress finds that—

“(1) it is in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia based on both majority rule and minority rights;

“(2) the elections held in April 1979, in which Zimbabwe-Rhodesians approved through elections the transfer of power to a black majority government, constituted a significant step toward multiracial democracy in Zimbabwe-Rhodesia;

“(3) the Government of Zimbabwe-Rhodesia has expressed its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues;

“(4) it is in the foreign policy interest of the United States to further continuing progress toward genuine majority rule in Zimbabwe-Rhodesia and to encourage a peaceful resolution of the conflict; and

“(5) the Government of Great Britain, which retains responsibility for Zimbabwe-Rhodesia under international law, has not yet taken steps to recognize the legality of the new government.

“(b) In view of these considerations, the President shall—

“(1) continue United States efforts to promote a speedy end to the Rhodesian conflict; and

“(2) terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines it would not be in our national interest to do so and so reports to the Congress. If the President so reports to the Congress, then sanctions shall be terminated if the Congress, within 30 calendar days after receiving the report under paragraph (2), adopts a concurrent resolution stating in substance that it rejects the determination of the President. A concurrent resolution under the preceding sentence shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.”

Pursuant to the authority contained in subsec. (b) of this section, the President issued Determination No. 80–6 on November 14, 1979, in which he found it to be in the national interest of the United States to continue sanctions against Zimbabwe-Rhodesia.

r. Foreign Relations Authorization Act, Fiscal Year 1979

Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963, approved October 7, 1978, as amended by Public Law 95-482 [Continuing Appropriations, Fiscal Year 1979; H.J. Res 1139], 92 Stat. 1603 at 1605, approved October 18, 1978; Public Law 96-60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 405, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983; Public Law 100-418 [Omnibus Trade and Competitiveness Act, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 104-66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this compilation.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1979”.

TITLE I—DEPARTMENT OF STATE

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1979 to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For “Administration of Foreign Affairs”, \$849,118,000.

(2) For "International Organizations and Conferences", \$412,826,000.

(3) For "International Commissions", \$20,773,000.

(4) For "Migration and Refugee Assistance", \$116,536,000.

(5) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

(c) Funds authorized to be appropriated for the fiscal year 1979 by paragraphs (1) through (4) of subsection (a) may be appropriated for the fiscal year 1979 for a purpose for which appropriations are authorized by any other of those paragraphs, except that the total amount appropriated for a purpose described in any of those paragraphs may not exceed by more than 10 percent the amount specifically authorized for that purpose by subsection (a).

* * * * *

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR
DEVELOPMENT

SEC. 103. (a) The Congress find that—

(1) science and technology are keys to eradicating hunger and poverty in developing countries;

(2) the ability of the developing countries to achieve self-sustaining growth has been hindered by the lack of an indigenous scientific and technological base;

(3) this scientific and technological base is vital to the emergence of developing countries as full and equal partners in the international system;

(4) expanded cooperation with respect to science and technology and can significantly contribute to an improved North-South relationship; and

(5) the United Nations Conference on Science and Technology for Development offers a valuable forum for the analysis of problems of development that might be alleviated or solved with the aid of scientific and technical expertise.

(b) It is therefore the sense of the Congress that the United States should strongly support the purpose of the United Nations Conference on Science and Technology for Development and that the United States delegation to this conference should actively develop and offer proposals which would facilitate an expansion of mutually beneficial cooperation among developed and developing countries with respect to science and technology, including joint education and research and development programs.

(c) In addition to amounts otherwise available for such purpose, \$945,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only for expenses incurred by the Department of State in connection with the United Nations Conference on Science and Technology for Development, including expenses for preparatory conferences and seminars held in the United States.

MEMORIAL STATUE OF GENERAL MARSHALL

SEC. 104. (a) The Secretary of State is authorized to acquire on behalf of the United States a memorial statue or bust of General George C. Marshall (hereafter in this section referred to as the "memorial") to be placed in an appropriate location within the Department of State.

(b)(1) To assist the Secretary of State in carrying out the provisions of subsection (a), there is established a Commission to be composed of seven members as follows:

(A) The Secretary, who shall be the chairman of the Commission.

(B) Two members appointed by the Secretary.

(C) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(D) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives. Members of the Commission shall serve without compensation.

(2) The Commission shall operate under the direction of the Secretary of State and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

(3) The Commission shall cease to exist upon completion of its functions under this section, as determined by the Secretary.

(c)(1) Of the funds authorized to be appropriated by section 101(a)(1) of this Act, not more than \$10,000 may be used for payment of costs incurred in carrying out subsection (a) of this section.

(2) All other costs incurred in carrying out subsection (a) shall be paid by the Secretary of State with funds contributed to the United States for such purpose.

(d) The Secretary of State shall be responsible for maintenance and care of the memorial.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

SEC. 105.¹ (a) It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292(a)), in order that—

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 119 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151q),² cooperation may be developed between the United States and other coun-

¹22 U.S.C. 292a.

²Sec. 119 was repealed in 1980.

tries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b)(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

- (A) the heating and cooling of buildings;
- (B) solar thermal electric systems;
- (C) solar photovoltaic conversion systems;
- (D) wind energy systems; and
- (E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give the priority to projects to be implemented in developing countries.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, 1926, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) In addition to amounts otherwise available for such purposes, \$4,000,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only to carry out the purposes of this section.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 106. Of the amount authorized to be appropriated by section 101(a)(4) of this Act, \$25,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

ASSISTANCE FOR REFUGEES IN AFRICA

SEC. 107. In addition to amounts otherwise available for such purpose, \$5,000,000 of the amount authorized to be appropriated by section 101(a)(4) of this Act shall be available only for assistance for refugees in Africa.

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SEC. 115. (a)³ * * * [Repealed—1994]

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PUBLICATION OF HISTORICAL DOCUMENTS BY THE DEPARTMENT OF STATE

SEC. 120.⁴ (a) The Congress finds that the Department of State publication "Foreign Relations of the United States" plays an important role in making the documentary record of United States foreign relations available to the Congress and the American public.

(b) The Secretary of State shall therefore insure that publication of the "Foreign Relations of the United States" volumes is continued in such a manner as will maintain the high standard of comprehensive documentation already established by past volumes.

ASSISTANCE TO BEREAVED UNITED STATES FAMILIES

SEC. 121.⁵ The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

SYSTEMATIC INFORMATION-SHARING

SEC. 122.⁶ The Congress finds that—

- (1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policy-

³Formerly at 22 U.S.C. 2652a. Sec. 162(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), repealed sec. 115(a), which had established an Assistant Secretary of State for International Narcotics Matters.

⁴44 U.S.C. 1314 note.

⁵22 U.S.C. 1175 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State describing alternative procedures by which the Department of State could provide loans or other forms of assistance to a U.S. citizen to facilitate arrangements following the death of another U.S. citizen abroad. The Secretary submitted this report on Jan. 19, 1979.

⁶22 U.S.C. 2280 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section, which had required a report from the Secretary of State containing recommendations for the establishment of an information-sharing arrangement between the State Department and congressional committees. The Secretary submitted this report on Jan. 19, 1979.

makers could be similarly valuable to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dissemination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized.

ASSISTING MINORITY ENTERPRISE

SEC. 123. (a) The Congress finds that the Inter-Agency Council for Minority Enterprise has been created to assist minority owned and operated businesses in establishing broader markets, including markets with respect to procurement by the United States Government.

(b) It is the sense of the Congress that the Secretary of State, in cooperation with such Council, should—

(1) broaden minority business participation in the provision of goods and services for the Department of State; and

(2) establish and expand export markets for minority businesses.

LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS IN UNITED STATES PASSPORTS

SEC. 124. For the purpose of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for the purpose of encouraging other countries which are signatories to the Final Act to comply with those provisions, the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), is amended by adding at the end thereof the following: "Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers."

DIPLOMATIC AND OFFICIAL PASSPORTS

SEC. 125.⁷ It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law.

⁷ 22 U.S.C. 211a note.

TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

SEC. 126.⁸ (a) For the purpose of implementing general principles of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) emphasizing the lowering of international barriers to the free movement of people and ideas and in accordance with provisions of the Vienna Convention on Diplomatic Relations establishing the legal principles of nondiscrimination and reciprocity, it shall be the general policy of the United States to impose restrictions on travel within the United States by citizens of another country only when the government of that country imposes restrictions on travel by the United States citizens within that country.

(b) The Secretary of State shall—

(1) insure that this policy is clearly conveyed to any foreign government imposing travel restrictions on United States citizens; and

(2) seek to elimination, on a mutual and reciprocal basis, of travel restrictions imposed by such government and by the Government of the United States on each other's citizens.

(c)⁹ * * * [Repealed—1983]

(d) Subsection (a) may not be construed as limiting any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

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TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

SEC. 401.¹⁰ * * * [Repealed—1981]

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SEC. 405. (a)¹¹ * * *

(b)¹¹ * * * [Repealed—1983]

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SEC. 406.¹² * * * [Repealed—1978]

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⁸22 U.S.C. 2691 note.
⁹Sec. 1011(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1061) repealed subsec. (c), which had required a report to Congress by the Secretary of State annually for 1979-1981 concerning domestic travel restrictions imposed by the U.S. Government, on a reciprocal basis, with respect to similar restrictions imposed by foreign governments on United States citizens.
¹⁰Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160), repealed sec. 401, relating to employment of family members overseas.
¹¹Sec. 405(a) amended the Foreign Service Act of 1946 by adding a new sec. 708. (Foreign Service Act of 1946 was replaced by the Foreign Service Act of 1980.) Sec. 1101(a)(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1061), repealed sec. 405(b) which had required a report to Congress from the Secretary of State regarding orientation and language training programs for family members of U.S. Government employees.
¹²Sec. 109 of the Continuing Appropriations, Fiscal Year 1979 (Public Law 95-482; 92 Stat. 1604), repealed sec. 406, relating to computation of annuities.

SEC. 411.¹³ * * *

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SEC. 413.¹⁴ * * * [Repealed—1981]

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TITLE V—SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY

FINDINGS

SEC. 501.¹⁵ The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial, academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

DECLARATION OF POLICY

SEC. 502.¹⁶ In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities involving the United States and foreign countries or international organizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international

¹³Sec. 411 added a new sec. 5926 to title 5, United States Code, relating to compensatory time off at certain posts in foreign areas.

¹⁴Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160) repealed sec. 413, which had required a review of Foreign Service personnel requirements and compensation.

¹⁵22 U.S.C. 2656a.

¹⁶22 U.S.C. 2656b.

relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

(5)¹⁷ Federally supported international science and technology agreements should be negotiated to ensure that—

(A) intellectual property rights are properly protected; and

(B) access to research and development opportunities and facilities and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.

RESPONSIBILITIES OF THE PRESIDENT

SEC. 503.¹⁸ (a) The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall—

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b)¹⁹ * * * [Repealed—1995]

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

¹⁷ Sec. 5171(a) of Public Law 100-418 (102 Stat. 1452) added paragraph (5).

¹⁸ 22 U.S.C. 2656c.

¹⁹ Sec. 1111(b) of Public Law 104-66 (109 Stat. 723) repealed subsec. (b), which had required the President to report annually on personnel requirements, and standards and training for service of U.S. Government officers and employees with respect to assignments in any Federal agency which involve foreign relations and science or technology and related matters.

(d)²⁰ (1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees, as he may consider necessary.

RESPONSIBILITY OF THE SECRETARY OF STATE

SEC. 504.²¹ (a)(1)²² In order to implement the policies²² set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(2)²² In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

(3)²² Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

(B) national security policies;

(C) United States trade policies; and

(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and

²⁰ Sec. 5171(c) of Public Law 100-418 (102 Stat. 1453) added a new subsec. (d).

²¹ 22 U.S.C. 2656d.

²² Sec. 5171(d) of Public Law 100-418 (102 Stat. 1453) redesignated subsec. (a) as (a)(1); struck out "policy" and inserted "policies"; and added paragraphs (2) and (3).

shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

(e)²³ * * * [Repealed—1982]

TITLE VI—POLICY PROVISIONS

INTERNATIONAL COMMUNICATIONS POLICY

SEC. 601.²⁴ The Congress finds that—

(1) a series of multilateral meetings scheduled to convene in 1978 and 1979 (including the twentieth General Conference of the United Nations Educational, Scientific, and Cultural Organization; the Thirty-second United Nations General Assembly; the United Nations Conference on Science and Technology for Development; and the World Administrative Radio Conference of the International Telecommunications Union) will address a complex variety of international communications and information issues and will likely, through the promulgation of binding agreements relating to such issues, have a significant and lasting effect on the free flow of information and ideas among the countries of the world; and

(2) since the United States is the leading user of communications channels and information in the world, the United States Government should have a comprehensive policy regarding the various communications and information issues that have entered international discussions and should establish an effective mechanism by which to develop and coordinate United States policy on such issues.

ACTION CONCERNING RESOURCES

SEC. 602.²⁵ It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing

²³ Subsec. (e), which had required a report from the Secretary of State concerning the coordination and oversight of all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979, and filed a supplemental report on October 26, 1979.

²⁴ Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President describing procedures established by which to develop and maintain a comprehensive U.S. policy regarding international communication and information issues and discussing U.S. goals and positions concerning anticipated international meetings addressing such issues. The President submitted this report on Feb. 8, 1979.

²⁵ 22 U.S.C. 1361 note.

destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

(A) the impact of cetaceans on ecologically related human foodstuffs, and

(B) alternative methods of dealing with cetacean problems as they occur;

(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

(4) to adopt comprehensive marine mammal protection legislation.

INTERNATIONAL JOURNALISTIC FREEDOM

SEC. 603.²⁶ (a) The Congress finds that—

(1) news dissemination and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

(b) It is therefore the sense of the Congress that the President should—

(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents, with a view toward gaining multilateral support for the legitimate rights of such correspondents.

(c)²⁷ * * * [Repealed—1982]

INTERNATIONAL FOOD RESERVE

SEC. 604.²⁸ (a) The Congress finds that—

²⁶ 22 U.S.C. 2656 note.

²⁷ Subsec. (c), which had required a report from the President describing actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The President submitted this report on Feb. 8, 1979.

²⁸ 22 U.S.C. 2220 note.

(1) half a billion people suffer regularly from malnutrition or undernutrition;

(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves;

(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

SPANISH DEMOCRACY

SEC. 605. (a) The Congress finds that—

(1) the Senate, in rendering its advice and consent to ratification of the Treaty of Friendship and Cooperation between the United States and Spain (signed on January 24, 1976), declared its hope and intent that the Treaty would serve to support and foster Spain's progress toward free institutions;

(2) this declaration reflected the strong desire of the United States Government and the American people to see a restoration of democracy in Spain and an expansion of mutually beneficial relations between Spain and the democracies of America and Europe; and

(3) political developments in Spain during the past two years constitute a major step toward the construction of a stable and lasting Spanish democracy.

(b) The Congress finds further that—

(1) the masterpiece "Guernica", painted by Pablo Picasso, has for four decades been a powerful and poignant symbol of the horror of war;

(2) this treasured painting, while universal in its significance, holds special meaning for the people of Spain by its rep-

resentation of the tragic civil war which destroyed Spanish democracy;

(3) Pablo Picasso, having painted "Guernica" for the Spanish Republican Government and concerned for Spain's future when that government fell, stipulated that the painting should remain in the custody of the Museum of Modern Art in New York until Spanish democracy had been restored; and

(4) the United States and Spain, in a Supplementary Agreement entered into with the Treaty of Friendship and Cooperation, have committed themselves to expand their cooperation in the fields of education and culture.

(c) It is therefore the sense of the Congress, anticipating the continuance of recent promising developments in Spanish political life, that "Guernica" should, at some point in the near future and through appropriate legal procedures, be transferred to the people and Government of a democratic Spain.

(d) It is further the sense of the Congress that the American people, having long benefited from this treasure and admiring Spain's achievement, would wish, as an expression of appreciation and congratulation upon the transfer of "Guernica" to Spain, to assist in the preparation of facilities for the permanent display of the painting, if such assistance is found to be appropriate by the elected leaders of Spain.

DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS

SEC. 606.²⁹ (a) The Congress finds that those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which affect, directly and significantly, the conduct of the United States foreign relations should be periodically reevaluated by the President and the Congress.

(b) Therefore, not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of other appropriate committees of the Senate, a report which—

(1) identifies all statutory provisions which provide for such discriminatory trade practices;

(2) evaluates each such practice; and

(3) recommends, in the form of draft legislation, such amendments to those provisions as the President certifies would in his judgment advance United States foreign policy interests.

CONDUCT OF DIPLOMATIC RELATIONS

SEC. 607.³⁰ The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not

²⁹ 22 U.S.C. 2842 note.

³⁰ 22 U.S.C. 2656 note.

in itself imply approval of that government or of the political-economic system it represents.

NUCLEAR-POWERED SATELLITES

SEC. 608.³¹ (a) The Congress finds that—

(1) no international regime governs the use of nuclear-powered satellites in space;

(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

(c)³² * * * [Repealed—1982]

WORLD ALTERNATE ENERGY CONFERENCE

SEC. 609. (a) The Congress finds that—

(1) increasing global dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

(2) the uncontrolled spread of nuclear power carries serious dangers due to waste pollution and the possibility of accidents or material diversion;

(3) expanded development and use of alternate, nonconventional, or renewable sources of energy (including solar energy, wind, biomass waste materials, and alcohol fuels) could assist all countries in satisfying rising energy demands, while reducing environmental and economic risk;

(4) no international agency exists at present which assists countries in exchanging information and technical assistance concerning energy-related problems or which promotes the development and use of alternate energy sources; and

(5) an international agency performing these functions could be of benefit to all countries and could be particularly effective in assisting developing countries to become more self-sufficient and thereby to increase their standard of living.

(b) It is therefore the sense of the Congress that the United States should encourage the United Nations to convene a World Alternate Energy Conference in 1981 for the purpose of considering ways to meet the energy needs of the world through the development and use of alternate energy sources. Among proposals considered at such a conference should be the establishment, under United Nations auspices, of an international Alternate Energy Commission to encourage the worldwide use of alternate energy

³¹ 22 U.S.C. 2656d note.

³² Subsec. (c), which had required a report from the Secretary of State on actions taken by the U.S. Government pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on Jan. 19, 1979.

sources by assisting in the dissemination of information and by other appropriate means.

(c)³³ * * * [Repealed—1982]

ATROCITIES IN CAMBODIA AND UGANDA

SEC. 610.³⁴ (a) The Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in Cambodia and Uganda, the Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring an end to the brutal and inhumane practices of the governments of those two countries.

(c)³⁵ * * * [Repealed—1982]

(d) It is the sense of the Congress that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) direct that the visa application of any official or employee of the Government of Uganda seeking to enter the United States for the purpose of military, paramilitary, or police training, may be approved by a consular officer only after the appropriate official of the Department of State in Washington has reviewed the application and has determined that the Government of Uganda has demonstrated a proper respect for the rule of law and for internationally recognized human rights; and

(3) instruct the Permanent Representative of the United States to the United Nations to submit to the Security Council of the United Nations for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

EQUITABLE TREATMENT OF UNITED STATES CITIZENS LIVING ABROAD

SEC. 611.³⁶ The Congress finds that—

(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progeny, veterans' bene-

³³ Subsec. (c), which had required a report from the Secretary of State on actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on Jan. 19, 1979.

³⁴ 22 U.S.C. 2151 note.

³⁵ Subsec. (c), which had required a report from the Secretary of State concerning actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979.

³⁶ 22 U.S.C. 1731 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section. Subsec. (b), as amended by sec. 407(b) of Public Law 96-60, had required a report from the President identifying all U.S. statutes and regulations which treat U.S. citizens living abroad differently from U.S. citizens living in the United States or which may cause competitive disadvantage for Americans working abroad relative to the treatment by other major trading nations of the world of their citizens who are working abroad. The report also required an evaluation of such practices and draft legislation to correct any unfair or competitively disadvantageous treatment. The President submitted reports pursuant to this requirement on August 27, 1979, and January 24, 1980.

fits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

(2)³⁷ United States statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad or working in international markets.

UNITED STATES-CANADIAN NEGOTIATIONS ON AIR QUALITY

SEC. 612.³⁸ (a) The Congress finds that—

(1) the United States and Canada share a common environment along a 5,500 mile border;

(2) the United States and Canada are both becoming increasingly concerned about the effects of pollution, particularly that resulting from power generation facilities, since the facilities of each country affect the environment of the other;

(3) the United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

(4) the United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

(b) It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

(c) It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States, should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source.

CUBAN PRESENCE IN AFRICA

SEC. 613.³⁹ The Congress finds that—

(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

³⁷ Paragraph (2) was amended and restated by sec. 407(a) of Public Law 96-60 (93 Stat. 405). It formerly read as follows: "(2) such fair and equitable treatment would be facilitated by a periodic review of statutes and regulations affecting Americans living abroad."

³⁸ 42 U.S.C. 7415 note.

³⁹ 22 U.S.C. 2370 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President reviewing U.S. diplomatic and economic relations with Cuba. The President submitted this report on February 8, 1979.

(2) the President has the authority under the Export Administration Act of 1969 to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year.

PALESTINIAN RIGHTS UNITS

SEC. 614. (a) The Congress, noting United Nations General Assembly Resolution 3376 (XXX) which established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and noting United Nations General Assembly Resolutions 32/40/A and 32/40/B which continued the mandate of that Committee and requested that the Secretary General establish within the Secretariat of the United Nations a Special Unit on Palestinian Rights, declares that—

(1) the continuation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the creation of the Special Unit on Palestinian Rights are wasteful expenditures of limited United Nations resources at a time when the United Nations is experiencing severe financial difficulties and when the United Nations is under close scrutiny from contributing members;

(2) the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People does not contribute to the process of peacemaking underway at present in the Middle East; and

(3) the United States Ambassador to the United Nations should be instructed to continue to oppose extensions of the mandate of that Committee as well as extensions of the Special Unit on Palestinian Rights.

(b) It is the sense of the Congress that the President should direct the Permanent Representative of the United States to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights.

TITLE VII—MISCELLANEOUS PROVISIONS

* * * * *

CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

SEC. 704. Effective October 1, 1978, there is authorized to be appropriated to the President \$60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

PROHIBITION ON AID OR REPARATIONS TO VIETNAM

SEC. 705.⁴⁰ The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

USE OF FOREIGN AIR CARRIERS

SEC. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communications Agency, the Agency for International Development (or any successor agency),⁴¹ and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

* * * * *
SEC. 709.⁴² * * * [Repealed—1982]

* * * * *
SEC. 711.⁴³ * * * [Repealed—1982]

⁴⁰Subsec. (a), which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

⁴¹This responsibility of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

⁴²Sec. 709, which had prohibited the use of any funds authorized to be appropriated by this Act, directly or indirectly, to effect the implementation of the Panama Canal treaties without authorization by the Constitution or by Act of Congress, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

⁴³Sec. 711, which had authorized \$1.5 million in each of the fiscal years 1979 and 1980 for a commission on global hunger and malnutrition, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

s. Foreign Relations Authorization Act, Fiscal Year 1978

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844, approved August 17, 1977; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1978”.

TITLE I—STATE DEPARTMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1978, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

- (1) For the “Administration of Foreign Affairs”, \$762,005,000.
- (2) For “International Organizations and Conferences”, \$426,687,000.¹
- (3) For “International Commissions”, \$21,839,000.
- (4) For “Education Exchange”, \$94,600,000.
- (5) For “Migration and Refugee Assistance”, \$63,554,000.

¹This authorization figure was substituted in lieu of the original authorization of \$389,412,000 by sec. 102 of Public Law 95-426 (92 Stat. 963).

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

TRANSFER AUTHORITY

SEC. 102. Funds authorized to be appropriated for fiscal year 1978 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

CONTRIBUTION TO THE WORLD HEALTH ORGANIZATION

SEC. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110),² \$7,281,583 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to pay the unpaid portion of the United States assessed contributions to the World Health Organization for the calendar years 1974 through 1977.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 104. Of the amount authorized to be appropriated by section 101(a)(5) of this Act, \$20,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

SEC. 105.³ * * * [Repealed—1985]

* * * * *

STRENGTHENING EDUCATIONAL EXCHANGE PROGRAMS

SEC. 107.⁴ The Congress finds that—

(1) for over thirty years the United States program for the international exchange of teachers and scholars, begun by the Act of August 1, 1946 (60 Stat. 754; known as the "Fulbright Act of 1946"), has contributed significantly to the free flow of knowledge and to greater understanding between the United States and other nations;

²Such Act placed a 25 percent ceiling on U.S. payments of assessed contributions to the United Nations or any affiliated agency. The amount authorized in this section was in excess of the 25 percent limit.

³Sec. 105, relating to the U.S. contribution to the International Committee of the Red Cross, was repealed by sec. 109(d) of Public Law 99-93 (99 Stat. 410).

⁴Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on measures taken to strengthen educational exchange activities. The Secretary submitted this report on January 3, 1978.

(2) it is in the interest of the United States that this program be strengthened; and

(3) a still stronger educational exchange program can be attained by—

(A) diversifying exchange opportunities so as to assist persons from professional and public life to spend time in an academic setting and to assist teachers and scholars to spend time in professional and other pursuits in the public arena;

(B) providing sharper focus to exchange activities by bringing selected grant recipients together for joint work on themes and problems identified as having current significance in international affairs; and

(C) lengthening the period of some scholarships to allow work by grant recipients to be phased over more than one location.

SEC. 108.⁵ * * * [Repealed—1994]

ASSISTANT SECRETARIES OF STATE

SEC. 109. (a) * * *

(6)⁶ The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section.

(7)⁷ * * * [Repealed—1982]

(b)–(d) * * *

SAINT LAWRENCE SEAWAY TOLL NEGOTIATIONS

SEC. 110. (a) There is established an advisory board (hereafter in this section referred to as the “Board”) to advise the Secretary of State with respect to the negotiations with Canada concerning toll increases on the Saint Lawrence Seaway and the Welland Canal.

(b) The Board shall consist of 15 members appointed by the President from among representatives of groups in the Great Lakes area which would be affected most directly by increased tolls, including port directors, port authorities, maritime labor, shipping companies, shippers, and consumers.

(c)(1) Members of the Board shall each be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

⁵Formerly at 22 U.S.C. 2151n-1. Sec. 139(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed sec. 108, which had required that the Secretary of State report annually on Americans incarcerated abroad.

⁶22 U.S.C. 2384 note. This position has been restated in sec. 1(c)(2) of the State Department Basic Authorities Act of 1956, as amended by sec. 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1995 and 1996, as the Assistant Secretary of State for Democracy, Human Rights, and Labor.

⁷Paragraph (7), which had required a report from the Secretary of State on operations and organization plans for the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, was repealed by sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 31, 1978.

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

(d) The Board shall cease to exist on the date designated by the Secretary of State as the date on which the negotiations described in subsection (a) are completed or on September 30, 1978, whichever date occurs first.

LIABILITY OF CONSULAR OFFICERS

SEC. 111. (a)(1) Sections 1735 and 1736 of the Revised Statutes of the United States (22 U.S.C. 1199) are repealed.⁸

(2) The section analysis of chapter two of title XVIII of the Revised Statutes of the United States is amended by striking out the items relating to sections 1735 and 1736.

(b) The repeals made by subsection (a) shall not affect suits commenced before the date of enactment of this Act.

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TITLE II—UNITED STATES INFORMATION AGENCY⁹

* * * * *

TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

* * * * *

SPECIAL ANNUITY FOR CERTAIN OFFICERS SELECTED-OUT FROM THE FOREIGN SERVICE

SEC. 411.¹⁰ (a) Subject to the conditions established in subsection (b), any Foreign Service officer—

(1) who was retired under section 633(a)(1) of the Foreign Service Act of 1946 before the date of enactment of this section;

(2) who was not in class 1, 2, or 3 at the time of retirement;

(3) who was 40 years of age or older at the time of retirement; and

(4) who had at least 20 years of service, exclusive of credit for unused sick leave, creditable for purposes of section 821 of such Act at the time of retirement;

shall be entitled to receive retirement benefits in accordance with the provisions of such section 824 in lieu of any retirement benefits which the officer may be entitled to elect under section 634(b)(2) of such Act. Such retirement benefits shall be paid from the Foreign Service Retirement and Disability Fund and shall be effective on the date the officer reaches age 50, the date of enactment of this section, or October 1, 1977, whichever date is latest.

⁸These sections authorized suits against U.S. consular officers for damages due to willful neglect or failure to perform any duty imposed by law.

⁹For text of this title, see page 1326.

¹⁰22 U.S.C. 1004 note.

(b) Retirement benefits may not be paid under this section unless (1) any refund of contributions paid to the officer under section 634(b)(2) of the Foreign Service Act of 1946 is repaid to the Foreign Service Retirement and Disability Fund, with interest, in accordance with sections 811 (d) and (f) of such Act; and (2) the service forming the basis for such retirement benefits is not used as the basis for any other retirement benefits under any retirement system.

(c) In the event that an officer who is entitled to retirement benefits under this section dies before reaching the age of fifty, but after the date of enactment of this section, his or her death shall be considered a death in service within the meaning of section 832 of the Foreign Service Act of 1946,¹¹ except that no survivor's annuity (other than a survivor's annuity which would be payable under the first complete sentence in section 634(b)(2) of such Act but for the enactment of this section) shall become effective before October 1, 1977.

(d) An officer entitled to retirement benefits under this section may make the election described in section 821 (b) or (f), as appropriate, of the Foreign Service Act of 1946¹¹ at any time before reaching the age of fifty or before the end of the sixty-day period beginning on the date of enactment of this section, whichever is later.

COMPENSATION FOR JUNIOR FOREIGN SERVICE OFFICERS

SEC. 412. (a)(1) Paragraph (2) of section 5541 of title 5, United States Code, is amended—¹²

(A) by striking out “or” at the end of clause (xii);

(B) by striking out the period at the end of clause (xiii) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following clauses:

“(xiv) a ‘Foreign Service officer’ within the meaning of section 401 of the Foreign Service Act of 1946; or

“(xv) a ‘Foreign Service information officer’ as provided for by the first section of the Act entitled ‘An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency¹³ through establishment of a Foreign Service Information Officer Corps,’ approved August 20, 1968”.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b)¹⁴ * * * [Repealed—1978]

¹¹ Repealed by the Foreign Service Act of 1980.

¹² This amendment to section 5541 of title 5 excluded Foreign Service officers from civil service law which required overtime pay for certain Federal employees of GS-10 or lesser rank.

¹³ The reference to the International Communication Agency was substituted in lieu of a reference to the United States Information Agency by sec. 204(b)(5) of Public Law 95-426 (92 Stat. 974). However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the Agency as the United States Information Agency and directed that any reference to the International Communication Agency shall be deemed to refer to the United States Information Agency.

¹⁴ Subsec. (b), which had provided for a \$250 per annum salary increase for Foreign Service officers in classes 5 through 8, was repealed by sec. 410 of Public Law 95-426 (92 Stat. 980). Such salary increase became effective with pay periods beginning on or after October 1, 1978.

SEC. 413.¹⁵ * * * [Repealed—1981]

LANGUAGE TRAINING FOR FOREIGN SERVICE SPOUSES

SEC. 414.¹⁶ It is the sense of Congress that, in order to increase the effectiveness of United States diplomatic representation abroad, the Secretary of State should make greater use of his authority under section 701 of the Foreign Service Act of 1946 in order to increase the language training opportunities available to the family members of Foreign Service personnel.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501.¹⁷ * * * [Repealed—1982]

BELGRADE CONFERENCE

SEC. 502. The Congress finds that the Belgrade Conference to review compliance with the Helsinki Accords provides the United States an important forum to press its case for greater respect for human rights. Furthermore, the Congress is convinced that the emphasis given human rights in general by the United States should be translated into concern for specific individuals. In this regard, the Congress is particularly concerned about the fate of Anatoly Shcharansky and urges the United States representatives to the Belgrade Conference to express the official concern of the United States over the Shcharansky case.

UNITED NATIONS REFORM

SEC. 503.¹⁸ The United States should make a major effort toward reforming and restructuring the United Nations system so that it might become more effective in resolving global problems. Toward that end, the United States should present a program for United Nations reform to the Special United Nations Committee on the Charter of the United Nations and on Strengthening of the Role of the Organization. In developing such a program the United States should give appropriate consideration to various possible proposals for reforming the United Nations, including but not limited to proposals which would—

- (1) adjust decisionmaking processes in the United Nations by providing voting in the General Assembly weighted according to population and contributions and by modifying veto powers on certain categories of questions, such as membership recommendations, in the Security Council;

¹⁵Sec. 413 was repealed by sec. 2205(3) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). For current text concerning the employment of family members of Foreign Service personnel, see sec. 311 of the Foreign Service Act of 1980.

¹⁶22 U.S.C. 1041 note. Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on increased language training opportunity for the families of Foreign Service personnel. The Secretary submitted this report on December 20, 1977.

¹⁷Sec. 501, which had required a report from the President containing recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States, was repealed by sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299). The President submitted this report on October 31, 1977.

¹⁸Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President on recommendations for reform in the United Nations. The President submitted this report on March 7, 1978.

- (2) foster greater use of the International Court of Justice by the United States and other members of the United Nations;
- (3) supplement United Nations finances through contributions from commerce, services, and resources regulated by the United Nations;
- (4) improve coordination of and expand United Nations activities on behalf of human rights;
- (5) establish more effective United Nations machinery for the peaceful settlement of disputes, including means for the submission of differences to mediation or arbitration;
- (6) adjust assessment scale calculations to reflect more accurately the actual ability of member nations to contribute to the United Nations and its specialized agencies; and
- (7) provide greater coordination of United Nations technical assistance activities by the United Nations Development program.

INFORMATION OFFICES IN THE UNITED STATES

SEC. 504. It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law.

REPARATIONS FOR VIETNAM

SEC. 505.¹⁹ The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

PANAMA CANAL

SEC. 506. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this Act must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

SEC. 507. (a) The President shall take appropriate steps to ensure that, at all stages of the United Nations Conference on Science and Technology for Development, representatives of the United States place important emphasis, in both official statements and informal discussions, on the development and use of light capital technologies in agriculture, in industry, and in the production and conservation of energy.

(b) As used in this section, the term "light capital technologies" means those means of production which economize on capital wherever capital is scarce and expensive and labor abundant and cheap, the purposes being to insure that the increasingly scarce capital in the world can be stretched to help all, rather than a small minor-

¹⁹22 U.S.C. 2151 note. Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (a) of this section which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam.

ity, of the world's poor; that workers will not be displaced by sophisticated labor-saving devices where there is already much unemployment; and further, that, poor nations can be encouraged eventually to produce their own capital from surplus labor time, thus enhancing their chances of developing independently of outside help.

* * * * *

FOREIGN EMPLOYMENT

SEC. 509. (a)–(c)²⁰ * * * [Repealed—1982]

(d)(1) Section 1032 of title 10, United States Code, is repealed.²¹

(2) The section analysis for chapter 53 of such title is amended by striking out the item relating to section 1032.

(3) Section 280 of such title is amended by striking out “1032,”.

INTERNATIONAL FOOD RESERVE

SEC. 510.²² (a) The Congress finds and declares that—

(1) half a billion people suffer from malnutrition or under-nutrition;

(2) very modest shortfalls in crop production can result in widespread human suffering;

(3) increasing variability in world food production and trade remains an ever-present threat to producers and consumers;

(4) the World Food Conference recognized the urgent need for an international undertaking on world food security based largely upon strategic food reserves;

(5) the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability;

(6) the Congress through legislation has repeatedly urged the President to enter negotiations with other nations to establish such a network of grain reserves;

(7) little progress has resulted from the initial multilateral discussions toward the negotiation of an international grain reserve system;

(8) this lack of progress caused, in part, by lack of leadership in such discussions; and

²⁰Public Law 97-295 (96 Stat. 1304) made technical amendments to the text of secs. 509(a) through (c), codified it at 37 U.S.C. 908, and repealed the existing language of secs. 509(a) through (c). 37 U.S.C. 908, as amended, reads as follows:

“§ 908. Employment of reserves and retired members by foreign governments

“(a) CONGRESSIONAL CONSENT.—Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

“(1) Retired members of the uniformed services.

“(2) Members of a reserve component of the armed forces.

“(3) Members of the Commissioned Reserve Corps of the Public Health Service.

“(b) APPROVAL REQUIRED.—A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

“(c) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.”

²¹10 U.S.C. 1032 granted congressional consent of foreign employment to reserve officers of the Armed Forces only.

²²22 U.S.C. 2220 note.

(9) the United States is in a unique position as the world's most important producer of foodstuffs to provide such leadership.

(b) It is therefore the sense of the Congress that the President should initiate a major diplomatic initiative toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

NEGOTIATIONS WITH CUBA

SEC. 511. (a) It is the sense of the Congress that any negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis, and that the vital concerns of the United States with respect to the basic rights and interests of United States citizens whose persons or property are the subject of such negotiations be protected.

(b) Furthermore, it is the sense of Congress that the Cuban policies and actions regarding the use of its military and paramilitary personnel beyond its borders and its disrespect for the human rights of individuals are among the elements which must be taken into account in any such negotiations.

UNITED STATES POLICY TOWARD KOREA

SEC. 512.²³ (a) The Congress declares that—

(1) United States policy toward Korea should continue to be arrived at by joint decision of the President and the Congress;

(2) in any implementation of the President's policy of gradual and phased reduction of United States ground forces from the Republic of Korea, the United States should seek to accomplish such reduction in stages consistent with United States interests in Asia, notably Japan, and with the security interests of the Republic of Korea;

(3) any implementation of this policy should be carried out with a careful regard to the interest of the United States in continuing its close relationship with the people and government of Japan, in fostering democratic practices in the Republic of Korea, and in maintaining stable relations among the countries of East Asia; and

(4) these interests can be served most effectively by a policy which involves consultations by the United States Government, as appropriate, with the governments of the region, particularly those directly involved.

(b)(1)²⁴ Any implementation of the foregoing policy shall be carried out in regular consultation with the Congress.

SEC. 513.²⁵ * * * [Repealed—1982]

²³22 U.S.C. 2428a.

²⁴Sec. 139(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed para. (2) of this subsec., which had required that the President report annually on the implementation of the policy outlined in this section.

²⁵Sec. 513, which had requested the Secretary of State to report at an appropriate date to Congress on procedures followed by the executive branch in preparation for the U.N. special session on disarmament and on U.S. objectives for that special session, was repealed by Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299).

INTERNATIONAL BOUNDARY AND WATER COMMISSION

SEC. 514. (a) Section 2(2) of the Act entitled "An Act to authorize conclusion of an agreement with Mexico for joint measures for solution of the Lower Rio Grande salinity problem," approved September 19, 1966 (22 U.S.C. 277d-31), is amended by inserting immediately after "\$25,000" the following: "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein,".

(b) Section 3 of the Act entitled "An Act to authorize the conclusion of agreements with Mexico for joint construction, operation, and maintenance of emergency flood control works on the lower Colorado River, in accordance with the provisions of article 13 of the 1944 Water Treaty with Mexico, and for other purposes", approved August 10, 1964 (22 U.S.C. 277d-28), is amended by inserting immediately after "\$30,000" the following: "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein,".

(c) Section 103 of the American-Mexican Treaty Act of 1950 (22 U.S.C. 277d-3) is amended by striking out "\$100 per diem" in the second sentence and inserting in lieu thereof "the maximum daily rate for grade GS-15 of the General Schedule".

(d) The amendments made by this section shall take effect on October 1, 1977.

FOREIGN GIFTS AND DECORATIONS

SEC. 515. (a)²⁶ * * *

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

²⁶Subsec. (a) comprehensively amended 5 U.S.C. 7342, entitled, "Receipt and disposition of foreign gifts and decorations".

t. Foreign Relations Authorization Act, Fiscal Year 1977

Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; as amended by Public Law 95-45 [Department of State Authorization, Fiscal Year 1977; H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; Public Law 99-514 [Tax Reform Act of 1986, H.R. 3838], 100 Stat. 2085, approved October 22, 1986

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1977”.

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume. In addition, title V of this Act which relates to Foreign Service retirement may be found on page 776.

TITLE I—STATE DEPARTMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1977, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

- (1) For the “Administration of Foreign Affairs”, \$552,455,000.
- (2) For “International Organizations and Conferences”, \$402,460,453.¹
- (3) For “International Commissions”, \$17,069,000.
- (4) For “Educational Exchange”, \$68,500,000.
- (5) For “Migration and Refugee Assistance”, \$28,725,000.²

¹Sec. 1 of Public Law 95-45 substituted “\$402,460,453” and “\$28,725,000” in lieu of “\$342,460,453” and “\$10,000,000,” respectively.

²The Supplemental Appropriations Act, 1977 (Public Law 95-26), provided: “For an additional amount for ‘Migration and refugee assistance’, \$18,725,000, to remain available until December 31, 1977: *Provided*, That of the funds appropriated under this paragraph, \$3,000,000 shall be allocated for reception and placement of refugees in the United States: *Provided further*, That

Continued

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

TRANSFER AUTHORITY

SEC. 102. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

CONTRIBUTION TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

SEC. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110), and notwithstanding the requirements of section 302(h) of the Foreign Assistance Act of 1961, \$3,545,453 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to complete the fiscal year 1975 United States contribution to the United Nations Educational, Scientific, and Cultural Organization.

* * * * *

RUSSIAN REFUGEE ASSISTANCE

SEC. 105. In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of State for fiscal year 1977 not to exceed \$20,000,000³ to carry out the provisions of section 101(b) of the Foreign Relations Authorizations Act of 1972⁴ (relating to Russian refugee assistance) and to furnish similar assistance to refugees from Communist countries in Eastern Europe. None of the funds appropriated under this section may be used to resettle refugees in any country other than Israel. Amounts appropriated under this section are authorized to remain available until expended.

_____ this appropriation shall be made available only upon enactment into law of authorizing legislation."

³The Foreign Assistance Appropriations Act, 1977, provided: "For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972 and the provisions of section 105 of the Foreign Relations Authorization Act, Fiscal Year 1977, \$15,000,000."

⁴Sec. 101(b) of the Foreign Relations Authorizations Act of 1972 read as follows: "The Secretary of State is authorized to furnish, on terms and conditions he considers appropriate, assistance to Israel or another suitable country, including assistance for the resettlement in Israel or such country of Jewish or other similar refugees from the Union of Soviet Socialist Republics. There are authorized to be appropriated to the Secretary not to exceed \$85,000,000 to carry out the provisions of this subsection."

UNITED STATES PASSPORT OFFICE

SEC. 106. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for fiscal year 1977, \$1,000,000, to be used for miniaturization of the files of the United States Passport Office. Amounts appropriated under this section are authorized to remain available until expended.

* * * * *

PAYMENT TO LADY CATHERINE HELEN SHAW

SEC. 108. Of the amount appropriated under paragraph (1) of section 101(a) of this Act for salaries and expenses, \$10,000 shall be available for payment ex gratia to Lady Catherine Helen Shaw, wife of the former Australian Ambassador to the United States, as an expression of the concern of the United States Government for the injuries which she sustained as a result of an attack on her in the District of Columbia.

* * * * *

PAN AMERICAN GAMES

SEC. 110. (a) The Congress finds that—

(1) the Eighth Pan American Games to be held in San Juan, Puerto Rico, in 1979 will provide an opportunity for more than six thousand young men and women, representing thirty-three countries in the Western Hemisphere, to participate in friendly athletic competition;

(2) international sporting events such as the Eighth Pan American Games make a unique contribution in promoting common understanding and mutual respect among people of different cultural backgrounds; and

(3) the President has the authority under the Mutual Educational and Cultural Exchange Act of 1961 to provide financing, when he considers that it would strengthen international cooperative relations, for (A) tours abroad by American athletes, (B) United States representation in international sports competitions, and (C) participation by groups and individuals from other countries in tours and in sports competitions in the United States.

(b) In order to strengthen international cooperative relations and promote the purposes of the Mutual Educational and Cultural Exchange Act of 1961,⁵ the Secretary of State shall use funds appropriated to carry out this section to provide financial assistance for the Eighth Pan American Games to be held in Puerto Rico in 1979. Such funds shall be transferred by the Secretary to the Recreation Development Company of Puerto Rico (a government corporation of the Commonwealth of Puerto Rico) for expenses directly related to the Eighth Pan American Games, including expenses for—

(1) promoting, organizing, and conducting such games;

(2) constructing new and repairing existing athletic and recreational facilities;

⁵The Supplemental Appropriations Act, 1977 (Public Law 95-26; 91 Stat. 89), appropriated \$10,000,000, "to remain available until expended."

(3) providing lodging, food, and transportation for participants in such games and for related personnel; and

(4) acquiring necessary material and equipment for such games. Such expenditures shall be subject to such controls and audits as the Comptroller General may prescribe.

(c) To carry out this section, there is authorized to be appropriated to the Secretary of State \$12,000,000.⁵

* * * * *

MEMBERSHIP AUTHORITY FOR INTERNATIONAL ORGANIZATIONS

SEC. 113. The President is authorized to maintain United States membership in the International Cotton Advisory Committee, the International Lead and Zinc Study Group, the International Rubber Study Group, and the International Seed Testing Association.

PANAMA CANAL

SEC. 114. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

INTERNATIONAL JOINT COMMISSION

SEC. 115. After the date of enactment of this Act, any commissioner of the International Joint Commission appointed on the part of the United States, pursuant to article VII of the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448, TS 548, III Redmond 2607), shall be appointed by the President by and with the advice and consent of the Senate.

* * * * *

SEC. 117.⁶ * * * [Repealed—1981]

* * * * *

SEC. 120.⁷ * * * [Repealed—1981]

DISCRIMINATION

SEC. 121.⁸ Information should not be disseminated about opportunities for, and there should be no participation or other assistance by any officer or employee of the Department of State (including the Agency for International Development) in, the negotiation of any contract or arrangement with a foreign country, individual, or entity, if—

⁶Sec. 117 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

⁷Sec. 120 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

⁸22 U.S.C. 2661a.

(1) any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1986)⁹ is prohibited from entering into such contract or arrangement, or

(2) such contract or arrangement requires that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof.

TITLE II—UNITED STATES INFORMATION AGENCY¹⁰

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TITLE IV—MISCELLANEOUS

* * * * *

SEC. 403.¹¹ * * * [Repealed—1982]

* * * * *

⁹Sec. 2 of Public Law 99-514 (100 Stat. 2095) redesignated “Internal Revenue Code of 1954” as “Internal Revenue Code of 1986”.

¹⁰For text of this title, see page 1330.

¹¹Sec. 403, which had required a report from the President concerning international broadcasting, was repealed by sec. 505(a)(4) of Public Law 97-241 (96 Stat. 299). The President submitted this report on March 22, 1977.

u. Foreign Relations Authorization Act, Fiscal Year 1976

Partial text of Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; as amended by Public Law 97-241 [Department of State Authorization, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1976".

TITLE I—ADMINISTRATION OF FOREIGN AFFAIRS

PART 1—DEPARTMENT OF STATE

* * * * *

TRAVEL DOCUMENT AND ISSUANCE SYSTEM

SEC. 102.¹ No part of any funds authorized to be appropriated by this title may be used for the development or implementation of the Travel Document and Issuance System which has been proposed by the United States Passport Office (and which involves a restructuring of the passport issuance function and the issuance of machine readable passport books), or of any other new passport system.

* * * * *

REOPENING OF UNITED STATES CONSULATE AT GOTHENBURG, SWEDEN

SEC. 105. (a) It is the sense of the Congress that the United States Consulate at Gothenburg, Sweden, should be reopened as soon as possible after the date of enactment of this Act.

(b)(1) There are authorized to be appropriated for the Department of State for fiscal year 1976, in addition to amounts authorized under section 101 of this Act, such sums as may be necessary for the operation of such consulate.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

¹Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had authorized \$100,000 to conduct a study on the desirability and cost implications of the Travel Document and Issuance System. Congress received this study on February 5, 1976.

AGRICULTURAL ATTACHÉ IN CHINA

SEC. 106. It is the sense of the Congress that the President should establish an agricultural attaché in the People's Republic of China.

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TITLE II—INTERNATIONAL ORGANIZATIONS,
CONFERENCES, AND COMMISSIONS

* * * * *

UNITED STATES CONTRIBUTION TO THE UNITED NATIONS UNIVERSITY
ENDOWMENT FUND

SEC. 205. There is authorized to be appropriated, upon request of the President, to the President for fiscal year 1977, \$10,000,000 to be used for a contribution of the United States to the United Nations University Endowment Fund, such contribution to be made on such terms as the President finds will promote the purposes of the University as stated in University Charter approved by the General Assembly of the United Nations in December 1973; except that the contribution of the United States to the United Nations University Endowment Fund may not exceed 25 per centum of the total amount actually contributed to such fund by other members of the United Nations. Amounts appropriated under this section are authorized to remain available until expended.

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TITLE IV—FOREIGN SERVICE

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SEC. 406.² * * *

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TITLE V—GENERAL

* * * * *

UNITED NATIONS COOPERATION REGARDING MEMBERS OF UNITED
STATES ARMED FORCES MISSING IN ACTION IN SOUTHEAST ASIA

SEC. 503.³ The President shall direct the United States Ambassador to the United Nations to insist that the United Nations take all necessary and appropriate steps to obtain an accounting of members of the United States Armed Forces and United States civilians missing in action in Southeast Asia.

²Sec. 406 amended the Act of June 28, 1955 (22 U.S.C. 2666), to authorize certain officers and employees to carry firearms. The Act of June 28, 1955 was subsequently repealed by Public Law 99-93. See instead, sec. 37 of the State Department Basic Authorities Act of 1956.

³Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President on actions taken by the United Nations to account for U.S. servicemen and civilians missing in action in Southeast Asia. The President submitted this report on June 1, 1976.

**v. State Department/USIA Authorization Act, Fiscal Year
1975**

Partial text of Public Law 93-475 [S. 3473], 88 Stat. 1439, approved October 26, 1974; as amended by Public Law 97-241 [Department of State Authorization, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982

AN ACT To authorize appropriations for the Department of State and the United States Information Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Department/USIA Authorization Act, Fiscal Year 1975".

* * * * *

REPEAL OF THE FORMOSA RESOLUTION

SEC. 3. The joint resolution entitled "Joint resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores and related possessions and territories of that area", approved January 29, 1955 (69 Stat. 7, Public Law 84-4), and known as the Formosa Resolution, is repealed.

* * * * *

LIMITATION ON PAYMENTS

SEC. 8. There are authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 percent of the total annual assessment of such organizations.

* * * * *

INTERNATIONAL MATERIALS

SEC. 14. It is the sense of the Congress that the Secretary of State should, and he is authorized to, establish within the Department of State a bureau which shall be responsible for continuously reviewing (1) the supply, demand, and price, throughout the world, of basic raw and processed materials (including agricultural commodities), and (2) the effect of United States Government programs and policies (including tax policy) in creating or alleviating, or assisting in creating or alleviating, shortages of such materials. In conducting such review, the bureau should obtain information with respect to—

(A) the supply, demand, and price of each such material in each major importing, exporting, and producing country and region of the world in order to understand long-term and short-term trends in the supply, demand, and price of such materials;

(B) projected imports and exports of such materials on a country-by-country basis;

(C) unusual patterns or changes in connection with the purchase or sale of such materials;

(D) a list of such materials in short supply and an estimate of the amount of shortage;

(E) international geological, geophysical, and political conditions which may affect the supply of such materials; and

(F) other matters that the Secretary considers appropriate in carrying out this section.

SEC. 15.¹ * * * [Repealed—1982]

¹Sec. 15, which had expressed the sense of the Congress that the Secretary of State should prepare a plan to reduce aid to South Vietnam, that the number of executive branch personnel (except members of certain agencies) located overseas should be reduced, and that the number of Defense Department officials assigned to military aid missions abroad should be reduced, was repealed by sec. 505(a)(6) of Public Law 97-241 (96 Stat. 299). Pursuant to sec. 15, the Secretary of State submitted a report on April 28, 1975, describing steps taken to carry out these provisions.

w. Department of State Appropriations Authorization Act of 1973

Partial text of Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973; as amended by Public Law 93-312 [Department of State Appropriations Authorization Act of 1973, H.R. 12466], 88 Stat. 237, approved June 8, 1974; Public Law 93-475 [State Department Authorization, Fiscal Year 1975; S. 3473], 88 Stat. 1439 approved October 26, 1974; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 969, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 103-306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994

AN ACT To authorize appropriations for the Department of State, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Department of State Appropriations Authorization Act of 1973”.

* * * * *
SEC. 6.¹ * * * [Repealed—1981]
* * * * *

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 9.² (a)³ There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. There⁴ shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the

¹ Sec. 6, as amended by Public Law 93-475, was repealed by sec. 2205(5) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). Sec. 6 had required the submission of a report to Congress detailing the political campaign contributions made by ambassadors and ministers (and their families) nominated by the President. This requirement now applies to all individuals nominated to be chiefs of mission, ambassadors at large, and ministers, and can be found at sec. 304(b)(2) of the Foreign Service Act of 1980.

² 22 U.S.C. 2655a. In Department of State Public Notice No. 2719 of January 8, 1998 (63 F.R. 6253), the Secretary of State delegated “the duties, functions and responsibilities now or hereafter vested in the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs to the Principal Deputy Assistant Secretary for Ocean [*sic*] and International Environmental and Scientific Affairs.”

³ Sec. 162(q)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), struck out subsec. (b) to this sec., which had amended 5 U.S.C. 5315 to add reference to this Assistant Secretary of State.

⁴ Sec. 162(q)(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), struck out “In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there”, and inserted in lieu thereof “There”.

Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs and for such other related duties as the Secretary may from time to time designate.⁵

* * * * *

REIMBURSEMENT FOR DETAILED STATE DEPARTMENT PERSONNEL

SEC. 11. (a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed one year,⁶ or if the number of officers and employees so detailed, assigned, or otherwise made available at any one time does not exceed fifteen and the period of any such detail, assignment, or availability of an officer or employee does not exceed two years,⁷ no reimbursement shall be required to be made under this section. Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Executive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.⁶

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5, United States Code.

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SEC. 13.⁸ * * * * * [Repealed—1994]

LIMITATION ON PUBLICITY AND PROPAGANDA PURPOSES

SEC. 14. No appropriation made available under this Act shall be used—

- (1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

⁵Sec. 162(q)(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), inserted "and for such other related duties as the Secretary may from time to time designate" before the period in this subsec.

⁶Sec. 118 of Public Law 95-426 (92 Stat. 969) extended this time period from ninety days to one year and added the final sentence of subsec. (a).

⁷Sec. 117 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405), added text beginning with "or if the number * * *" to this point.

⁸Formerly at 5 U.S.C. 5924. Sec. 13, which had required Congressional authorization for the involvement of U.S. Armed Forces in further hostilities in Indochina, and for extending assistance to North Vietnam, was repealed by sec. 526(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1632).

(2) to influence in any way the outcome of a political election.

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MUTUAL RESTRAINT ON MILITARY EXPENDITURES

SEC. 16. It is the sense of the Congress that the United States and the Union of Soviet Socialist Republics should, on an urgent basis and in their mutual interests, seek agreement on specific mutual reductions in their respective expenditures for military purposes so that both nations can devote a greater proportion of their available resources to the domestic needs of their respective peoples; and, the President of the United States is requested to seek such agreements for the mutual reduction of armament and other military expenditures in the course of all discussions and negotiations in extending guaranties, credits, or other forms of direct or indirect assistance to the Soviet Union.

* * * * *

x. Foreign Relations Authorization Act of 1972, as amended

Partial text of Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; as amended by Public Law 93-126 [Department of State Appropriations Authorization Act of 1973, H.R. 7645], 87 Stat. 451, approved October 18, 1973; and by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G, H.R. 4328], 112 Stat. 2681-765), approved October 21, 1998

AN ACT To provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act of 1972".

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TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

* * * * *

EXPRESSION OF INDIVIDUAL VIEWS TO CONGRESS

SEC. 502.¹ Upon the request of a committee of either House of Congress, a joint committee of Congress, or a member of such committee, any officer or employee of² the Department of State,³ the Agency for International Development,⁴ or any other department, agency, or independent establishment of the United States Government primarily concerned with matters relating to foreign countries or multilateral organizations, may express his views and opinions, and make recommendations he considers appropriate, if the request of the committee or member of the committee relates to a subject which is within the jurisdiction of that committee.

* * * * *

TITLE VI—STUDY COMMISSION RELATING TO FOREIGN POLICY

FINDINGS AND PURPOSE

SEC. 601.⁵ It is the purpose of this title to establish a study commission which will submit findings and recommendations to pro-

¹2 U.S.C. 194a.
²Sec. 1335(n) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "the United States Information Agency," after "Department of State".
³Sec. 1225(g) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out "the United States Arms Control and Disarmament Agency," after "Agency for International Development".
⁴Sec. 17 of Public Law 93-126 (87 Stat. 452), inserted the words "or employees of" in lieu of "appointed by the President, by and with the advice and consent of the Senate, in a position in".
⁵22 U.S.C. 2821.

vide a more effective system for the formulation and implementation of the Nation's foreign policy.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE
CONDUCT OF FOREIGN POLICY

SEC. 602.⁶ (a) To carry out the purpose of section 601 of this Act, there is established a Commission on the Organization of the Government for the Conduct of Foreign Policy (hereafter referred to in this title as the "Commission").

(b) The Commission shall be composed of the following twelve members:

(1) four members appointed by the President, two from the executive branch of the Government and two from private life;

(2) four members appointed by the President of the Senate, two from the Senate (one from each of the two major political parties) and two from private life; and

(3) four members appointed by the Speaker of the House of Representatives, two from the House of Representatives (one from each of the two major political parties) and two from private life.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Each member of the Commission who is not otherwise employed by the United States Government shall receive \$145 a day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 603.⁷ (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to—

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

⁶ 22 U.S.C. 2822.

⁷ 22 U.S.C. 2823.

(2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(5) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

(b) The Commission shall submit a comprehensive report to the President and Congress, not later than June 30, 1975,⁸ containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include proposed constitutional amendments, legislation, and administrative actions the Commission considers appropriate in carrying out its duties. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

POWERS OF THE COMMISSION

SEC. 604.⁹ (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of any such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

⁸Sec. 4 of Public Law 93-126 (87 Stat. 452), changed the date to June 30, 1975, from June 30, 1974.

⁹22 U.S.C. 2824.

STAFF OF THE COMMISSION

SEC. 605.¹⁰ (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS-18.

EXPENSES OF THE COMMISSION

SEC. 606.¹¹ There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

¹⁰ 22 U.S.C. 2825.

¹¹ 22 U.S.C. 2826.

y. Department of State Appropriations

(1) Department of State and Related Agency Appropriations Act, 2001

Partial text of Public Law 106-553 [Title IV of H.R. 5548, enacted by reference in H.R. 4942], 114 Stat. 2762, approved December 21, 2000

* * * * *

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

* * * * *

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$2,758,725,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, in fiscal year 2001, all receipts collected from individuals for assistance in the preparation and filing of an affidavit of support pursuant to section 213A of the Immigration and Nationality Act shall be deposited into this account as an offsetting collection and shall remain available until expended: *Provided further*, That, of the amount made available under this heading, \$246,644,000 shall be available only for public

diplomacy international information programs: *Provided further*, That of the amount made available under this heading, \$5,000,000 shall be available only for overseas continuing language education: *Provided further*, That of the amount made available under this heading, not to exceed \$1,400,000 shall be available for transfer to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2001 and 2002, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2001 and 2002 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended: *Provided further*, That advances for services authorized by 22 U.S.C. 3620(c) may be credited to this account, to remain available until expended for such services: *Provided further*, That in fiscal year 2001 and thereafter reimbursements for services provided to the press in connection with the travel of senior-level officials may be collected and credited to this appropriation and shall remain available until expended: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China, unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action: *Provided further*, That of the amount made available under this heading, \$40,000,000 shall only be available to implement the 1999 Pacific Salmon Treaty Agreement, of which \$10,000,000 shall be deposited in the Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund, of which \$10,000,000 shall be deposited in the Southern Boundary Restoration and Enhancement Fund, and of which \$20,000,000 shall be for a direct payment to the State of Washington for obligations under the 1999 Pacific Salmon Treaty Agreement.

In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs, and from fees from educational advising and counseling, and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

In addition, for the costs of worldwide security upgrades, \$410,000,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$97,000,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$28,490,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$231,587,000, to remain available until expended: *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and educational advising and counseling programs as authorized.

REPRESENTATION ALLOWANCES

For representation allowances as authorized, \$6,499,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$15,467,000, to remain available until September 30, 2002: *Provided*, That, notwithstanding the limitations of 3 U.S.C. 202(10) concerning 20 or more consulates, of the amount made available under this heading, \$5,000,000 shall be available only for the reimbursement of costs incurred by the City of Seattle, Washington.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Main State Building, and carrying out the Diplomatic Security Construction Program as authorized, \$416,976,000, to remain available until expended as authorized, of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized: *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$663,000,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular

Service, \$5,477,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, \$591,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$604,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8, \$16,345,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$131,224,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$870,833,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That of the funds appropriated in this paragraph, \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in calendar year 2000 prior to the date of enactment of this Act to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed the budget for the biennium 2000-2001 of \$2,535,700,000: *Provided further*, That if the Secretary of State is unable to make the aforementioned certification, the \$100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations, subject to the reprogramming procedures contained in Section 605 of this Act: *Provided further*, That funds

appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$846,000,000, of which 15 percent shall remain available until September 30, 2002: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$7,142,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$22,950,000, to remain available until expended, as authorized.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$6,741,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$19,392,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, \$9,250,000, to remain available until expended, as authorized.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2001, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2001, to remain available until expended.

EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$13,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any

contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$30,999,000, to remain available until expended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, \$398,971,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For necessary expenses to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.

BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$20,358,000, to remain available until expended, as authorized.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in

this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this Act may be used by the Department of State or the Broadcasting Board of Governors to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

SEC. 404. (a) Section 1(a)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(a)(2)) is amended by striking “and the Deputy Secretary of State” and inserting “, the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources”.

(b) Section 5313 of title 5, United States Code, is amended by inserting “Deputy Secretary of State for Management and Resources.” after the item relating to the “Deputy Secretary of State”.

SEC. 405. None of the funds appropriated or otherwise made available in this Act for the United Nations may be used by the United Nations for the promulgation or enforcement of any treaty, resolution, or regulation authorizing the United Nations, or any of its specialized agencies or affiliated organizations, to tax any aspect of the Internet.

SEC. 406. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to allow for the entry into, or withdrawal from warehouse for consumption in the United States of diamonds if the country of origin in which such diamonds were mined (as evidenced by a legible certificate of origin) is the Republic of Sierra Leone, the Republic of Liberia, the Republic of Cote d'Ivoire, Burkina Faso, the Democratic Republic of the Congo, or the Republic of Angola with the exception of diamonds certified by the lawful governments of the Republic of Sierra Leone, the Democratic Republic of the Congo, or the Republic of Angola.

SEC. 407. Section 37(a)(3) of the State Department Basic Authorities Act, as amended, (22 U.S.C. 2709) is amended by—

- (1) striking “and” at the end of subsection (a)(3)(C); and
- (2) by inserting at the end the following new subsections:

“(E) a departing Secretary of State for a period of up to 180 days after the date of termination of that individual’s incumbency as Secretary of State, on the basis of a threat assessment; and

“(F) an individual who has been designated by the President to serve as Secretary of State, prior to that individual’s appointment.”

SEC. 408. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State, and for the American Section of the International Joint Commission in Public Law 106-246, may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

This title may be cited as the “Department of State and Related Agency Appropriations Act, 2001”.

* * * * *

TITLE VI—GENERAL PROVISIONS ¹

* * * * *

SEC. 609. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds: (1) that the United Nations undertaking is a peacekeeping mission; (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) that the President’s military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 610. (a) None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.²

(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2001.

* * * * *

¹Title VI follows the Department of State and Related Agency Appropriations Act, 2000, and is part of the larger Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001.

²Sec. 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105-277), provides the following:

“SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for: (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995; unless the President certifies within 60 days the following [The President made such a determination on February 3, 1999, as published in Presidential Determination No. 99-12 (64 F.R. 6779)]:

“(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

“(i) Resolving discrepancy cases, live sightings, and field activities.

“(ii) Recovering and repatriating American remains.

“(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

“(iv) Providing further assistance in implementing trilateral investigations with Laos.

“(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.”.

SEC. 617. (a) None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as amended.³

(b) Subsection (a)(1) of section 616 of that Act, as amended, is further amended—

(1) by striking “and” after “Toussaint,”; and

(2) by inserting before the semicolon at the end of the subsection, “, Jean Leopold Dominique, Jean-Claude Louissaint, Legitime Athis and his wife, Christa Joseph Athis, Jean-Michel Olophene, Claudy Myrthil, Merilus Deus, and Ferdinand Dorvil”.

(c) The requirements in subsections (b) and (c) of section 616 of that Act shall continue to apply during fiscal year 2001.

* * * * *

SEC. 623. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 624. Beginning 60 days from the date of the enactment of this Act, none of the funds appropriated or otherwise made available by this Act may be made available for the participation by delegates of the United States to the Standing Consultative Commission unless the President certifies and so reports to the Committees on Appropriations that the United States Government is not implementing the Memorandum of Understanding Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the limitation of Anti-Ballistic Missile Systems of May 26, 1972, entered into in New York on September 26, 1997, by the United States, Russia, Kazakhstan, Belarus, and Ukraine, or until the Senate provides its advice and consent to the Memorandum of Understanding.

SEC. 625. None of the funds appropriated in this Act may be available to the Department of State to approve the purchase of property in Arlington, Virginia by the Xinhua News Agency.

* * * * *

SEC. 628. Section 623 of H.R. 3421 (the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (16 U.S.C. 3645)), as enacted into law by section 1000(a)(1) of Public Law 106-113 (113 Stat. 1535), is amended—⁴

³For text of sec. 616 of the 1999 Act, as amended, see page 580.

⁴For amended text, see page 572.

(a) in subsection (a)(1) by striking “The Northern Fund and Southern Fund shall each receive \$10,000,000 of the amounts authorized by this section.”;

(b) by striking subsection (d) and inserting in lieu thereof the following new subsection:

“(d)(1) PACIFIC SALMON TREATY.—

“(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$75,000,000.

“(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$65,000,000.

“(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of \$30,000,000.

“(2) PACIFIC COASTAL SALMON RECOVERY.—

“(A) For salmon habitat restoration, salmon stock enhancement, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, and 2003, \$90,000,000 to the States of Alaska, Washington, Oregon, and California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

“(B) For salmon habitat restoration, salmon stock enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, \$10,000,000 to be divided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).”

* * * * *

Titles I through VII of this Act may be cited as the “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001.”

(2) Emergency Supplemental Appropriations Act, 2000

Partial text of Public Law 106-246 [H.R. 4425], 114 Stat. 511 at 525,
approved July 13, 2000

**AN ACT Making appropriations for military construction, family housing,
and base realignment and closure for the Department of Defense for the
fiscal year ending September 30, 2001, and for other purposes.**

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

* * * * *

**DIVISION B—FISCAL YEAR 2000 SUPPLEMENTAL
APPROPRIATIONS**

The following sums are appropriated, out of any money in the
Treasury not otherwise appropriated, for the fiscal year ending
September 30, 2000, and for other purposes, namely:

* * * * *

TITLE II

* * * * *

CHAPTER 2

* * * * *

DEPARTMENT OF STATE

INTERNATIONAL COMMISSIONS

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the Inter-
national Joint Commission, as authorized by treaties between the
United States and Canada or Great Britain, \$2,150,000, to remain
available until expended: *Provided*, That the entire amount is des-
ignated by the Congress as an emergency requirement pursuant to
section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit
Control Act of 1985, as amended: *Provided further*, That the entire
amount shall be available only to the extent that an official budget
request, that includes designation of the entire amount of the re-
quest as an emergency requirement as defined in the Balanced
Budget and Emergency Deficit Control Act of 1985, as amended, is
transmitted by the President to the Congress.

OTHER

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

For necessary expenses for the United States Commission on International Religious Freedom, as authorized by title II of the International Religious Freedom Act of 1998 (Public Law 105-292), \$2,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

* * * * *

This division may be cited as the “Emergency Supplemental Act, 2000”.

(3) Department of State and Related Agency Appropriations Act, 2000

Partial text of Public Law 106–113 [Title IV of H.R. 3421, enacted by reference in the District of Columbia Appropriations Act, 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; amended by Public Law 106–553 [H.R. 4942], 114 Stat. 2762, approved December 21, 2000

* * * * *

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

* * * * *

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

* * * * *

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY

* * * * *

SEC. 404. Beginning in fiscal year 2000 and thereafter, section 410(a) of the Department of State and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277, shall be in effect.¹

* * * * *

This title may be cited as the “Department of State and Related Agency Appropriations Act, 2000”.

* * * * *

TITLE VI—GENERAL PROVISIONS²

* * * * *

SEC. 623. (a) NORTHERN FUND AND SOUTHERN FUND.—

(1) As provided in the June 30, 1999, Agreement of the United States and Canada on the Treaty Between the Government of the United States and the Government of Canada Con-

¹Relating to machine readable border crossing cards and nonimmigrant visas; see page 577.

²Title VI and Title VII follow the Department of State and Related Agency Appropriations Act, 2000, and are part of the larger Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000.

cerning Pacific Salmon, 1985 (hereafter referred to as the "1999 Pacific Salmon Treaty Agreement") there are hereby established a Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund (hereafter referred to as the "Northern Fund") and a Southern Boundary Restoration and Enhancement Fund (hereafter referred to as the "Southern Fund") to be held by the Pacific Salmon Commission. The Northern Fund and Southern Fund shall be invested in interest bearing accounts, bonds, securities, or other investments in order to achieve the highest annual yield consistent with protecting the principal of each Fund.³ Income from investments made pursuant to this paragraph shall be available until expended, without appropriation or fiscal year limitation, for programs and activities relating to salmon restoration and enhancement, salmon research, the conservation of salmon habitat, and implementation of the Pacific Salmon Treaty and related agreements. Amounts provided by grants under this subsection may be held in interest bearing accounts prior to the disbursement of such funds for program purposes, and any interest earned may be retained for program purposes without further appropriation. The Northern Fund and Southern Fund are subject to the laws governing Federal appropriations and funds and to unrestricted circulars of the Office of Management and Budget. Recipients of amounts from either Fund shall keep separate accounts and such records as are reasonably necessary to disclose the use of the funds as well as to facilitate effective audits.

(2) FUND MANAGEMENT.—

(A) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Northern Fund pursuant to paragraph (1) shall be administered by a Northern Fund Committee, which shall be comprised of three representatives of the Government of Canada, and three representatives of the United States. The three United States representatives shall be the United States Commissioner and Alternate Commissioner appointed (or designated) from a list submitted by the Governor of Alaska for appointment to the Pacific Salmon Commission and the Regional Administrator of the National Marine Fisheries Service for the Alaska Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area from Cape Caution, Canada to Cape Suckling, Alaska may be approved for funding by the Northern Fund Committee.

(B) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Southern Fund pursuant to paragraph (1) shall be administered by a Southern Fund Committee, which shall be comprised of three representatives of Canada and three representatives of the United States. The United States representatives shall be appointed by the Secretary of Commerce: one shall

³Sec. 628(a) of Public Law 106-553 (114 Stat. 2762A-108) struck out "The Northern Fund and Southern Fund shall each receive \$10,000,000, of the amounts authorized by this section." at this point.

be selected from a list of three qualified individuals submitted by the Governors of the States of Washington and Oregon; one shall be selected from a list of three qualified individuals submitted by the treaty Indian tribes (as defined by the Secretary of Commerce); and one shall be the Regional Administrator of the National Marine Fisheries Service for the Northwest Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area south of Cape Caution, Canada may be approved for funding by the Southern Fund Committee.

(b) PACIFIC SALMON TREATY IMPLEMENTATION.—(1) None of the funds authorized by this section for implementation of the 1999 Pacific Salmon Treaty Agreement shall be made available until each of the following conditions to the 1999 Pacific Salmon Treaty Agreement has been fulfilled—

(A) stipulations are revised and court orders requested as set forth in the letter of understanding of the United States negotiators dated June 22, 1999. If such orders are not requested by December 31, 1999, this condition shall be considered unfulfilled; and

(B) a determination is made that—

(i) the entry by the United States into the 1999 Pacific Salmon Treaty Agreement;

(ii) the conduct of the Alaskan fisheries pursuant to the 1999 Pacific Salmon Treaty Agreement, without further clarification or modification of the management regimes contained therein; and

(iii) the decision by the North Pacific Fisheries Management Council to continue to defer its management authority over salmon to the State of Alaska are not likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93-205, as amended, in any fishery subject to the Pacific Salmon Treaty.

(2) If the requests for orders in subparagraph (1)(A) are withdrawn after December 31, 1999, or if such orders are not entered by March 1, 2000, amounts in the Northern Fund and the Southern Fund shall be transferred to the general fund of the United States Treasury.

(3) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce shall determine whether Southern United States fisheries are likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93-205, as amended, before the Secretary of Commerce may initiate or reinstate consultation on Alaska fisheries under such Act.

(4) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce may not initiate or reinstate consultation on Alaska fisheries under section 7 of Public Law 93-205, as amended, until—

(A) the Pacific Salmon Commission has had a reasonable opportunity to implement the provisions of the 1999 Pacific Salmon Treaty Agreement, including the harvest responses pursu-

ant to paragraph 9, chapter 3 of Annex IV to the Pacific Salmon Treaty; and

(B) he determines, in consultation with the United States Section of the Pacific Salmon Commission, that implementation actions under the 1999 Agreement will not return escapements as expeditiously as possible to maximum sustainable yield or other biologically-based escapement objectives agreed to by the Pacific Salmon Commission.

(5) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives of his intent to initiate or reinstate consultation on Alaska fisheries.

(6)(A) For purposes of this section, "Alaska fisheries" means all directed Pacific salmon fisheries off the coast of Alaska that are subject to the Pacific Salmon Treaty.

(B) For purposes of this section, "Southern United States fisheries" means all directed Pacific salmon fisheries in Washington, Oregon, and the Snake River basin of Idaho that are subject to the Pacific Salmon Treaty.

(c) IMPROVED SALMON MANAGEMENT.—Section 3(g) of Public Law 99-5, as amended, is amended—* * *⁴

(d)⁵ (1) PACIFIC SALMON TREATY.—

(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$75,000,000.

(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of \$65,000,000.

(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of \$30,000,000.

(2) PACIFIC COAST SALMON RECOVERY.—

(A) For salmon habitat restoration, salmon stock enhancement, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, and 2003 \$90,000,000 to the States of Alaska, Washington, Oregon, and

⁴For text of Public Law 99-5, as amended, see *Legislation on Foreign Relations Through 2001*, vol. IV.

⁵Sec. 628(b) of Public Law 106-553 (114 Stat. 2762A-108) amended and restated subsec. (d). It formerly read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) For capitalizing the Northern Fund and the Southern Fund, there is authorized to be appropriated in fiscal year 2000, \$20,000,000.

"(2) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated in fiscal year 2000, \$50,000,000 to the States of California, Oregon, Washington, and Alaska. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

"(3) For salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement and related agreements, there is authorized to be appropriated \$6,000,000 in fiscal year 2000 to the Pacific Coastal tribes (as defined by the Secretary of Commerce) and \$2,000,000 in fiscal year 2000 to the Columbia River tribes (as defined by the Secretary of Commerce).

"Funds appropriated to the States under the authority of this section shall be subject to a 25 percent non-Federal match requirement. In addition, not more than 3 percent of such funds shall be available for administrative expenses, with the exception of funds used in the Washington State for the Forest and Fish Agreement."

California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

(B) For salmon habitat restoration, salmon stock, enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, \$10,000,000 to be divided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).

* * * * *

**(4) Department of State and Related Agencies
Appropriations Act, 1999**

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; as amended by Public Law 106-31 [Emergency Supplemental Appropriations, 1999; H.R. 1141], 113 Stat. 57, approved May 21, 1999; Public Law 106-113 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000, H.R. 3421 as enacted by reference therein], 113 Stat. 1535, approved November 29, 1999; and by public Law 106-553 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001; H.R. 5548 enacted by reference in H.R. 4942], 114 Stat. 2762, approved December 21, 2000

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

* * * * *

SEC. 101 * * *

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

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

* * * * *

**TITLE IV—DEPARTMENT OF STATE AND RELATED
AGENCIES**

DEPARTMENT OF STATE

* * * * *

**GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED
AGENCIES**

* * * * *

SEC. 409. During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

SEC. 410.(a)(1)(A) Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall impose, for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Im-

migration and Nationality Act, a fee of \$13 (for recovery of the costs of manufacturing the combined card and visa) in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2)(A) Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been reduced under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge the non-reduced fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing such machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas, including the costs of processing the machine readable combined border crossing cards and nonimmigrant visas for which the fee is reduced pursuant to this subsection.

(b) The Secretary of State shall continue, until the date that is 5 years after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note et seq.), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the

United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

(c) Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking “3 years” and inserting “5 years”.

* * * * *

This title may be cited as the “Department of State and Related Agencies Appropriations Act, 1999”.

* * * * *

TITLE VI—GENERAL PROVISIONS

* * * * *

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for: (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995; unless the President certifies within 60 days the following:¹

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

- (i) Resolving discrepancy cases, live sightings, and field activities.
- (ii) Recovering and repatriating American remains.
- (iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.
- (iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully

¹The President made such a determination on February 3, 1999, as published in Presidential Determination No. 99-12 (64 F.R. 6779).

Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762), provided the following:

“SEC. 610. (a) None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

“(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2001.”

documented and available in unclassified and unredacted form to immediate family members.

* * * * *

SEC. 616. (a) None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmero, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, Jean-Hubert Feuille, Jean-Yvon Toussaint² Jimmy Lalanne, Jean Leopold Dominique, Jean-Claude Louissaint, Legitime Athis and his wife, Christa Joseph Athis, Jean-Michel Olophene, Claudy Myrthil, Merilus Deus, and Ferdinand Dorvil;²

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under

²Sec. 618(b) of Public Law 106-113 (113 Stat. 1501) struck out “and” after “Gonzalez” and added “Jean-Yvon Toussaint and Jimmy Lalanne”. Sec. 617(a) of Public Law 106-553 (114 Stat. 2762A-106) struck out “and” after “Jean-Yvon Toussaint” (resulting in no punctuation between that name and “Jimmy Lalanne”, and added after “Jimmy Lalanne” the following: “, Jean Leopold Dominique, Jean-Claude Louissaint, Legitime Athis and his wife, Christa Joseph Athis, Jean-Michel Olophene, Claudy Myrthil, Merilus Deus, and Ferdinand Dorvil”. Sec. 618 of Public Law 106-113 continued the funding prohibition and the terms of subsecs. (b) and (c) for Fiscal Year 2000. Sec. 617(a) of Public Law 106-553 (114 Stat. 2762A106) provided that “None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as amended.”.

this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

* * * * *

(5) Department of State Appropriations Act, 1995

Partial text of Public Law 103-317 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies 1995 Appropriations and 1994 Supplemental Appropriations; H.R. 4603], 108 Stat. 1724 at 1760, approved August 26, 1994

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, and for other purposes, namely:

* * * * *

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

* * * * *

GENERAL PROVISIONS—DEPARTMENT OF STATE

* * * * *

SEC. 507.¹ (a) DIPLOMATIC TELECOMMUNICATIONS SERVICE FINANCIAL MANAGEMENT.—In fiscal year 1995 and each succeeding fiscal year—

¹ 22 U.S.C. 2669a. Sec. 2218 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-816; 22 U.S.C. 2669b) provided the following:

“SEC. 2218. REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.

“(a) PROCUREMENT POLICY.—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

“(b) IMPLEMENTATION.—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

“(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

“(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

“(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.”

Sec. 305 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

“SEC. 305. REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

“(a) ADDITIONAL RESOURCES.—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the amounts made available to the Department of State under section 101(2), \$18,000,000 shall be

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS-PO); and

(3) the DTS-PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS POLICY BOARD.—Within 60 days after the date of the enactment of this Act, the Secretary of State and the Director of the DTS-PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year by—

(1) the Director of the DTS-PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce² and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of

made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

⁴(b) IMPROVEMENT OF DTS-PO.—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

⁴(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

⁴(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is undertaken by United States citizens who have received appropriate security clearances;

⁴(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

⁴(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

⁴(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assignments shall be adjusted in the customary manner.

⁴(c) REPORT ON IMPROVING MANAGEMENT.—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate the Director's plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

⁴(d) FUNDING OF DTS-PO.—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

⁴(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.”

²Sec. 1335(m) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105(277; 112 Stat. 2681-789) struck out “, the United States Information Agency,”.

whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS-PO for a 2-year term.

(c) DTS CONSOLIDATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of State and the Director of the DTS-PO shall carry out a program under which total DTS consolidation will be completed before October 12, 1995, at not less than five embassies of medium to large size.

(2) PILOT PROGRAM REQUIREMENTS.—Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) PILOT PROGRAM REPORT.—Not later than January 15, 1996, the Secretary of State and the Director of the DTS-PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS PLANNING REPORT.—Not later than January 15, 1995, the Secretary of State and the Director of the DTS-PO shall submit to the Committee on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS-PO on the full-time services of contractors.

* * * * *

(6) Department of State Appropriations Act, 1988

Partial text of Public Law 100-202 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, Sec. 101(a) of the Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329-1, approved December 22, 1987; as amended by Public Law 100-459 [Department of State Appropriations Act, 1989; H.R. 4782], 102 Stat. 2205, approved October 1, 1988; Public Law 101-515 [Department of State Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101, approved November 5, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION. 1. * * *

(a) * * *

(b) * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

* * * * *

TITLE III—DEPARTMENT OF STATE

* * * * *

GENERAL PROVISIONS—DEPARTMENT OF STATE

* * * * *

SEC. 303.¹ There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of \$350,000² for each fiscal year to carry out (in accordance with the respective authorization amounts) section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, section 2 of Public Law 86-420, and section 109(b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985.³ These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended * * *

SEC. 304.⁴ * * * [Repealed—1991]

SEC. 305.⁵ The following sections of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989) are waived during Fiscal Years 1988 and 1989 in the event that H.R. 1777 is enacted into law: Sec. 122, Sec. 151 and Sec. 204.

* * * * *

¹22 U.S.C. 276 note. Sec. 303 provided appropriations for various parliamentary conferences and interparliamentary unions in which the United States participates. For text of legislation cited here, see *Legislation on Foreign Relations Through 2001*, vol. IV, sec. N.

Sec. 2503(a), (d), and (e) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-836; 22 U.S.C. 276 note) provided the following:

“(a) INTERPARLIAMENTARY UNION LIMITATION.—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

“(b)–(c) * * *

“(d) CONDITIONAL TERMINATION OF AUTHORITY.—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled ‘An Act to authorize participation by the United States in the Inter-parliamentary Union’, approved June 28, 1935 (22 U.S.C. 276-276a-4) is repealed.

“(e) TRANSFER OF FUNDS TO THE TREASURY.—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100-202) that are available as the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.”.

Sec. 502(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 462), provided the following:

“(b) DEPOSIT OF FUNDS IN INTEREST-BEARING ACCOUNTS.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100-202 (101 Stat. 1329-23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.”.

²Sec. 2503(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 [subdivision B of division G of Public Law 105-277; 112 Stat. 2681-837], struck out “\$440,000” and inserted in lieu thereof “\$350,000”. Previously, sec. 304(a)(1) of the Department of State Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2128) struck out “\$340,000” and inserted in lieu thereof “\$440,000”; sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207), struck out “\$290,000” and inserted “\$340,000”.

³Sec. 2503(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-837) struck out reference to “paragraph (2) of the first section of Public Law 74-170”. Previously, sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207), added the reference to sec. 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164). Sec. 304(a)(2) of the Department of State Appropriations Act, 1991 amended this by adding reference to subsec. (b).

⁴Sec. 132(h)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 665), repealed sec. 304, relating to occupancy of the Soviet Union’s new chancery building in Washington, D.C., and occupancy of the U.S. Embassy in Moscow.

⁵22 U.S.C. 1461 note, 2656 note. H.R. 1777 was enacted into law as Public Law 100-204, on December 22, 1987.

2. Organization and Administration

a. Foreign Service Act of 1980

Partial text of Public Law 96-465 [H.R. 6790], 94 Stat. 2071, approved October 17, 1980, as amended by Executive Order 12289, February 14, 1981, 46 F.R. 12693; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273, approved August 24, 1982; Executive Order 12446, October 17, 1983, 48 F.R. 48443; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-335 [Federal Employees' Retirement System Act of 1986, H.R. 2672], 100 Stat. 514, approved June 6, 1986; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 2151], 100 Stat. 853, approved August 27, 1986; Public Law 99-514 [Tax Reform Act of 1986, H.R. 3838], 100 Stat. 2085, approved October 22, 1986; Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3610, approved October 24, 1986; Public Law 99-556 [Federal Employee's Retirement System Technical Corrections Act of 1986, H.R. 5626], 100 Stat. 3131, approved October 27, 1986; Public Law 100-204 [Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-238 [Federal Employees' Retirement System, Technical Corrections; H.R. 3395], 101 Stat. 1744, approved January 8, 1988; Public Law 101-12 [Whistleblower Protection Act, S. 20], approved April 10, 1989; Public Law 101-167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101-194 [Ethics Reform Act of 1989, H.R. 3660], 103 Stat. 1716, approved November 30, 1989; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 101-509 [Treasury, Postal Service and General Government Appropriations Act, 1991; H.R. 5241], 104 Stat. 1389, approved November 5, 1990; Public Law 101-513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-496 [Intelligence Authorization Act for Fiscal Year 1993, H.R. 5095], 106 Stat. 3180, approved October 24, 1992; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103-66 [Omnibus Budget Reconciliation Act of 1993, H.R. 2264], 107 Stat. 312, approved August 10, 1993; Public Law 103-178 [Intelligence Authorization Act for Fiscal Year 1994, H.R. 2330], 107 Stat. 2024, approved December 3, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-65 [Lobbying Disclosure Act of 1995; S. 1060], 109 Stat. 691, approved December 19, 1995; Public Law 105-33 [Balanced Budget Act of 1997; H.R. 2015], 111 Stat. 251, approved August 5, 1997; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; division G of H.R. 4328], 112 Stat. 2681-761, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act for Fiscal Years 1998 and 1999; subdivision B of division G of H.R. 4328], 112 Stat. 2681-801, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; Public Law 105-382 [Department of

State Special Agents Retirement Act of 1998 [Public Law 105-382; H.R. 633], approved November 13, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001, H.R. 3427 enacted by reference in sec. 1000(a)(7) of the Consolidated Appropriations Act, Fiscal Year 2000; H.R. 3194], 113 Stat. 1536, approved November 29, 1999; and by Public Law 106-346 [Department of Transportation and Related Agencies Appropriations Act, 2001, H.R. 5394 enacted by reference in sec. 101(a) of H.R. 4475], 114 Stat. 1356, approved October 23, 2000

AN ACT To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

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

SECTION 1. SHORT TITLE.—This Act may be cited as the “Foreign Service Act of 1980”.

SEC. 2. TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

SEC. 101.¹ FINDINGS AND OBJECTIVES.—(a) The Congress finds that—

(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States

¹ 22 U.S.C. 3901.

in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this Act is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding ex-

ecutive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

SEC. 102.² DEFINITIONS.—As used in this Act, the term—

(1) “abroad” means all areas not included within the United States;

(2) “agency” means an agency as defined in section 552(e) of title 5, United States Code;

(3) “chief of mission” means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) to be temporarily in charge of such a mission or office;

(4) “Department” means the Department of State, except that with reference to the exercise of functions under this Act with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

(5) “employee” (except as provided in section 1002(8)) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) “function” includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) “Government” means the Government of the United States;

(8) “merit principles” means the principles set out in section 2301(b) of title 5, United States Code;

(9) “principal officer” means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) “Secretary” means the Secretary of State, except that (subject to section 201) with reference to the exercise of functions under this Act with respect to any agency authorized by

² 22 U.S.C. 3902. Sec. 130(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) struck out a subsec. designation “(a)” following the section title and struck out the text of subsec. (b). Subsec. (b) had read as follows:

“(b) References in this Act or any other law to ‘Foreign Service officers’ shall, with respect to the International Communications Agency, be deemed to refer to Foreign Service information officers.”.

law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

(12) "United States", when used in a geographic sense, means the several States and the District of Columbia.

SEC. 103.³ MEMBERS OF THE SERVICE.—The following are the members of the Service.

(1) Chiefs of mission, appointed under section 302(a)(1) or assigned under section 502(c).

(2) Ambassadors at large, appointed under section 302(a)(1).

(3) Members of the Senior Foreign Service, appointed under section 302(a)(1) or 303, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 302(a)(1), who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 303, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 303, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 303 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

SEC. 104.⁴ FUNCTIONS OF THE SERVICE.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interest of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

SEC. 105.⁵ MERIT PRINCIPLES; PROTECTIONS FOR MEMBERS OF THE SERVICE; AND MINORITY RECRUITMENT.—(a)(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term "personnel action" means—

³ 22 U.S.C. 3903.

⁴ 22 U.S.C. 3904.

⁵ 22 U.S.C. 3905.

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this Act which relates to any action referred to in subparagraph (A).

(b) The Secretary shall administer the provisions of this Act and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, geographic or educational affiliation within the United States,⁶ or political affiliation, as prohibited under section 2302(b)(1) of title 5, United States Code;

(2) are free from reprisal for—

(A) a disclosure of information by a member of applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5, United States Code.

(c) This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any ac-

⁶Sec. 153(d) of the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 43) inserted "geographic or educational affiliation within the United States," after "marital status".

tion against a member of the Service who discloses information to the Congress.

(d)(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5, United States Code.

(2)⁷ The Secretary shall transmit, to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.

(e) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

CHAPTER 2—MANAGEMENT OF THE SERVICE

SEC. 201.⁸ THE SECRETARY OF STATE.—(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this Act.

SEC. 202.⁹ OTHER AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a)(1) The Broadcasting Board of Governors and the Administrator of the Agency for International Develop-

⁷ Paragraph (2) was amended and restated by sec. 185(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1365).

⁸ 22 U.S.C. 3921.

⁹ 22 U.S.C. 3922.

ment¹⁰ may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this Act.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(4)¹¹ (A) Whenever (and to the extent) the Secretary of State considers it in the best interests of the United States Government, the Secretary of State may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch) to appoint under section 303 individuals described in subparagraph (B) as members of the Service and to utilize the Foreign Service personnel system with respect to such individuals under such regulations as the Secretary of State may prescribe.

(B) The individuals referred to in subparagraph (A) are individuals eligible for employment abroad under section 311(a).

(b) Subject to section 201(b)—

(1) the agency heads referred to in subsection (a), and

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other Act),

shall in the case of their respective agencies exercise the functions vested in the Secretary by this Act.

SEC. 203.¹² COMPATIBILITY AMONG AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State.

¹⁰Sec. 1335(k)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “Director of the United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(A) of that Act (112 Stat. 2681-793) struck out “Director of the United States International Development Cooperation Agency” and inserted in lieu thereof “Administrator of the Agency for International Development”.

¹¹Sec. 332 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added para. (4).

¹²22 U.S.C. 3923.

(b) Nothing in this chapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

SEC. 204.¹³ CONSOLIDATED AND UNIFORM ADMINISTRATION OF THE SERVICE.—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695)) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions.

SEC. 205.¹⁴ COMPATIBILITY BETWEEN THE FOREIGN SERVICE AND OTHER GOVERNMENT PERSONNEL SYSTEMS.—The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable.

SEC. 206.¹⁵ REGULATIONS; DELEGATION OF FUNCTIONS.—(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out functions under this Act.

(b) The Secretary may delegate functions under this Act which are vested in the Secretary to any employee of the Department or any member of the Service.

SEC. 207.¹⁶ CHIEF OF MISSION.—(a) Under the direction of the President, the chief of mission to a foreign country—

(1) shall have full responsibility for the direction, coordination, and supervision of all Government executive branch¹⁷ employees in that country (except for employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government executive branch¹⁷ employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any executive branch¹⁷ agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

¹³ 22 U.S.C. 3924.

¹⁴ 22 U.S.C. 3925.

¹⁵ 22 U.S.C. 3926.

¹⁶ 22 U.S.C. 3927.

¹⁷ Sec. 136 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1345), inserted "executive branch" in subssecs. (a)(1), (a)(2), and (b).

(c)¹⁸ Each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

SEC. 208.¹⁹ DIRECTOR GENERAL OF THE FOREIGN SERVICE.

The President shall appoint, by and with the advice and consent of the Senate, a Director General of the Foreign Service, who shall be a current or former career member of the Foreign Service. The Director General should assist the Secretary of State in the management of the Service and perform such functions as the Secretary of State may prescribe.

SEC. 209.²⁰ INSPECTOR GENERAL.—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.²¹ The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

- (1) whether financial transactions and accounts are properly conducted, maintained, and reported;
- (2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;
- (3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and,

¹⁸ Subsec. (c) was added by sec. 123 of Public Law 97-241 (96 Stat. 281).

¹⁹ 22 U.S.C. 3928. Sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 411), amended and restated sec. 208. It formerly read:

“SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.”

²⁰ 22 U.S.C. 3929.

²¹ The sentence following this note was repealed by sec. 413 of Public Law 99-399 (100 Stat. 868) and was restored by sec. 405 of Public Law 99-529 (100 Stat. 3010).

specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(4)²² The Inspector General shall develop and provide to employees—

(A) information detailing their rights to counsel; and

(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.

(5)²³ INVESTIGATIONS.—

(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

²² Sec. 2208(a) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810) added para. (4).

²³ Sec. 339(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added para. (5).

Sec. 339(c), (d), and (e) of that Act further provided the following pertaining to this amendment and that made at sec. 209(d)(2):

“(c) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

“(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

“(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

“(3) the Privacy Act of 1974 (5 U.S.C. 552a);

“(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection);

“(5) rule 6(e) of the Federal Rules of Criminal Procedure (relating to the protection of grand jury information); or

“(6) any statute or executive order pertaining to the protection of classified information.

“(d) NO GRIEVANCE OR RIGHT OF ACTION.—A failure to comply with the amendments made by this section shall not give rise to any private right of action in any court or to an administrative complaint or grievance under any law.

“(e) EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.”

(i) abide by professional standards applicable to Federal law enforcement agencies; and

(ii) make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

(B) FINAL REPORTS OF INVESTIGATIONS.—In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

(i) make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person's actions;

(ii) include in every final report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;²⁴

(E) a listing of each audit report completed by the Inspector General during the reporting period; and

(F)²⁴ a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.

²⁴ Sec. 339(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "and" at the end of subpara. (D), struck out a period and inserted in lieu thereof "; and" at the end of subpara. (E), and added a new subpara. (F).

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²⁵ of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²⁵ of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6 (b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(3)²⁶ The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence,

²⁵ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁶ Sec. 2208(b) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810) added para. (3).

or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

SEC. 210.²⁷ BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President²⁸ and shall include one or more representatives of the Department of State, the Broadcasting Board of Governors, the Agency for International Development,²⁹ the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

SEC. 211.³⁰ BOARD OF EXAMINERS FOR THE FOREIGN SERVICE.—
(a) The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 301(b) to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government em-

²⁷ 22 U.S.C. 3930.

²⁸ Sec. 153 of Public Law 99-93 (99 Stat. 405) inserted “shall be chaired by an individual appointed by the President” in lieu of “shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State.”

²⁹ Sec. 1335(k)(2) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(B) of that Act (112 Stat. 2681-793) struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “Agency for International Development”.

³⁰ 22 U.S.C. 3931.

ployees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) The Board of Examiners shall periodically review the examinations prescribed under section 301(b) in order to determine—

- (1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;
- (2) methods of minimizing any such adverse impact;
- (3) alternatives to any examinations which have such an adverse impact; and
- (4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 301(b).

(c) Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

CHAPTER 3—APPOINTMENTS

SEC. 301.³¹ GENERAL PROVISIONS RELATING TO APPOINTMENTS.—

(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term “veteran or disabled veteran” means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(d)(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or non-career members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates

³¹ 22 U.S.C. 3941. See also sec. 153(g) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 44).

or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.³²

SEC. 302.³³ APPOINTMENTS BY THE PRESIDENT.—(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador,³⁴ as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under chapter 5 and the member shall not, by virtue of the accept-

³²The last sentence was added by sec. 179(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331). Sec. 179(b) made the sentence effective with respect to tax years beginning after December 31, 1987.

³³22 U.S.C. 3942.

³⁴Sec. 141 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 667), inserted "as an ambassador."

ance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.³⁵

SEC. 303.³⁶ APPOINTMENTS BY THE SECRETARY.—The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a)) in accordance with this Act and such regulations as the Secretary may prescribe.

SEC. 304.³⁷ APPOINTMENT OF CHIEFS OF MISSION.—(a)(1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b)(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate

³⁵Sec. 142(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 667), struck out text in the second sentence of subsec. (b) following "assignment", and inserted in lieu thereof text beginning with "may elect to continue * * *". The same sentence had been amended by sec. 177(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1362).

³⁶22 U.S.C. 3943.

³⁷22 U.S.C. 3944. Sec. 208(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), repealed subsec. (c), which had read as follows:

"(c) Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country."

and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

SEC. 305.³⁸ APPOINTMENT TO THE SENIOR FOREIGN SERVICE.—(a) Appointment to the Senior Foreign Service shall be to a salary class established under section 402, and not to a position.

(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

(c)³⁹ (1) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in subsection (b).

(2) Except as provided in paragraph (3), no more than one individual (other than an individual with reemployment rights under section 310 as a career appointee in the Senior Executive Service) may serve under a limited appointment in the Senior Foreign Service in the Department of Commerce at any time.

³⁸22 U.S.C. 3945. Sec. 324 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

"SEC. 324. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.

"The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

"(1) The number of members of the Senior Foreign Service.

"(2) The number of vacant positions designated for members of the Senior Foreign Service.

"(3) The number of members of the Senior Foreign Service who are not assigned to positions."

Sec. 175 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 413), provided the following:

"SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.

"(a) AUDIT AND REVIEW.—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

"(b) REPORT.—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

³⁹Subsection (c) was added by sec. 119(a) of Public Law 99-93 (99 Stat. 412), effective October 1, 1985.

(3) The Secretary of Commerce may appoint an individual to a limited appointment in the Senior Foreign Service for a specific position abroad if—

(A) no career member of the Service who has the necessary qualifications is available to serve in the position; and

(B) the individual appointed has unique qualifications for the specific position.

(d)⁴⁰ The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3993a of title 5, United States Code.

SEC. 306.⁴¹ CAREER APPOINTMENTS.—(a) Before receiving a career appointment in the Service an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 303, or

(2) to recommend to the President that the candidate be given a career appointment under section 302.

(b) Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c)⁴² Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 1107 of this Act.

SEC. 307.⁴³ ENTRY LEVELS FOR FOREIGN SERVICE OFFICER CANDIDATES.—A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 404 to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

SEC. 308.⁴⁴ RECALL AND REEMPLOYMENT OF CAREER MEMBERS.—(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as

⁴⁰ Sec. 506(c)(1) of the Ethics Reform Act (Public Law 101-194; 103 Stat. 1759) inserted a second subsection (c) to sec. 305, effective January 1, 1991. Sec. 6(d)(3) of Public Law 101-280 (104 Stat. 160) amended the Ethics Reform Act of 1989 to designate the new subsection as “(d)”.

⁴¹ 22 U.S.C. 3946.

⁴² Subsec. (c) was added by sec. 181(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1363). Sec. 181(e) of Public Law 100-204 provided that the amendment not apply with respect to any grievance in which the Board had issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 before the date of its enactment.

⁴³ 22 U.S.C. 3947.

⁴⁴ 22 U.S.C. 3948.

that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members of the Service may be reappointed under section 302(a)(1) or 303, without regard to section 306, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

SEC. 309.⁴⁵ LIMITED APPOINTMENTS.—(a)⁴⁶ A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsection (b),⁴⁶ may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

(b)⁴⁶ A limited appointment may be extended for continued service—

- (1) as a consular agent;
- (2) in accordance with section 311(a);
- (3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11;⁴⁷
- (4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency; and⁴⁷
- (5)⁴⁷ as a foreign national employee.

SEC. 310.⁴⁸ REEMPLOYMENT RIGHTS FOLLOWING LIMITED APPOINTMENT.—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5, United States Code.

SEC. 311.⁴⁹ UNITED STATES CITIZENS HIRED ABROAD—

⁴⁵ 22 U.S.C. 3949.

⁴⁶ Sec. 176 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1361) added subsec. designation (a); replaced the words “section 311(a)” with “subsection (b)” in subsec. (a); and added a new subsec. (b).

⁴⁷ Sec. 180(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck “and” at the end of para. (3); replaced the period at the end of para. (4) with “; and”; and inserted “; and (5) as a foreign national employee.” Sec. 1(hh) of Public Law 103-415 (108 Stat. 4303) amended clause (5) to conform with indentation of other paragraphs in the subsection.

⁴⁸ 22 U.S.C. 3950.

⁴⁹ 22 U.S.C. 3951. Sec. 180(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), amended and restated sec. 311. As worded, the amendment struck out the section designation and catchline, which read “SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—”. Sec. 1(h)(A) of Public Law 103-415 (108 Stat. 4300) inserted the section heading as shown. designation and catchline have been retained here.

Sec. 311 formerly read as follows:

“SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve

(a) The Secretary, under section 303, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

(b) The fact that an applicant for employment in a position referred to in subsection (a) is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

(c)(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 408.

(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407.

(3) In exceptional circumstances, non-family members may be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407, if the Secretary determines that the national interest would be served by such payments.

(d) Nonfamily member United States citizens employed under this section shall not be eligible by reason of such employment⁵⁰ for benefits under chapter 8 of this Act, or under chapters 83 or 84 of title 5, United States Code.

SEC. 312.⁵¹ DIPLOMATIC AND CONSULAR COMMISSIONS.—(a) The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) The Secretary of State shall define the limits of consular districts.

CHAPTER 4—COMPENSATION

SEC. 401.⁵² SALARIES OF CHIEFS OF MISSION.—(a) Except as provided in section 302(b), each⁵³ chief of mission shall receive a sal-

under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 408.

“(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.”

⁵⁰Sec. 1(h)(B) of Public Law 103-415 (108 Stat. 4300) inserted “by reason of such employment” after “eligible”.

⁵¹22 U.S.C. 3952.

⁵²22 U.S.C. 3961.

⁵³Sec. 142(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out “Each”, and inserted in lieu thereof “Except as provided in section 302(b), each”.

Previously, sec. 177 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1362) had struck out the opening exception to section 302(b),

ary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, United States Code, except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level I⁵³ of such Executive Schedule.⁵³

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

SEC. 402.⁵⁴ SALARIES OF THE SENIOR FOREIGN SERVICE.—(a)(1)⁵⁵ The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. The President shall also prescribe one or more basic salary rates for each class. Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

(2)⁵⁵ The Secretary shall determine which of the basic salary rates prescribed by the President under paragraph (1) for any salary class shall be paid to each member of the Senior Foreign Service who is appointed to that class. The Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

(b)(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5, United States Code, and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid

and inserted language after “United States Code”. Sec. 177 also stated that these amendments would not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of their enactment during the period such individual continues to serve in such position.

Sec. 142(b)(2) of Public Law 102-138 struck out “level II of such”, and inserted in lieu thereof “level I of such”.

⁵⁴22 U.S.C. 3962. Sec. 2403(d)(2) of this Act stated that “For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.” (October 17, 1980).

⁵⁵Sec. 124 of Public Law 97-241 (96 Stat. 281) inserted the paragraph designation “(1)”, added the second sentence in par. (1), and inserted a new par. (2).

under section 5382 of title 5, United States Code, immediately prior to such appointment.

SEC. 403.⁵⁶ FOREIGN SERVICE SCHEDULE.—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with section 5303⁵⁷ of title 5, United States Code.

NOTE.—Executive Order 13182, December 23, 2000, 65 F.R. 82879, states:

FOREIGN SERVICE SCHEDULE									
Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	\$79,710	\$64,588	\$52,335	\$42,407	\$34,362	\$30,719	\$27,462	\$24,550	\$21,947
2	\$82,101	66,526	53,905	43,679	35,393	31,641	28,286	25,287	22,605
3	84,564	68,521	55,522	44,990	36,455	32,590	29,134	26,045	23,284
4	87,101	70,577	57,188	46,339	37,548	33,567	30,008	26,826	23,982
5	89,714	72,694	58,904	47,729	38,675	34,575	30,909	27,631	24,702
6	92,406	74,875	60,671	49,161	39,835	35,612	31,836	28,460	25,443
7	95,178	77,121	62,491	50,636	41,030	36,680	32,791	29,314	26,206
8	98,033	79,435	64,365	52,155	42,261	37,780	33,775	30,193	26,992
9	100,974	81,818	66,296	53,720	43,529	38,914	34,788	31,099	27,802
10	103,623	84,273	68,285	55,332	44,835	40,081	35,832	32,032	28,636
11	103,623	86,801	70,334	56,991	46,180	41,284	36,907	32,993	29,495
12	103,623	89,405	72,444	58,701	47,565	42,522	38,014	33,983	30,380
13	103,623	92,087	74,617	60,462	48,992	43,798	39,154	35,002	31,291
14	103,623	94,850	76,856	62,276	50,462	45,112	40,329	36,053	32,230

SEC. 404.⁵⁸ ASSIGNMENT TO A SALARY CLASS.—(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 407 or⁵⁹ section 408) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to a position classified under chapter 5.

⁵⁶ 22 U.S.C. 3963. Sec. 2403(d)(2) of this Act stated that "For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act." (Oct. 17, 1980).

⁵⁷ Sec. 101(b)(1) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1439), struck out "subchapter I of chapter 53" and inserted in lieu thereof "section 5303".

⁵⁸ 22 U.S.C. 3964.

⁵⁹ Sec. 180(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out "who are family members of Government employees paid in accordance with a local compensation plan established under" after "section 407 or".

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

SEC. 405.⁶⁰ PERFORMANCE PAY.—(a) Subject to subsection (e), members⁶¹ of the Senior Foreign Service who are serving—

- (1) under career or career candidate appointments, or
- (2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5, United States Code, and rank awards under section 4507 of title 5, United States Code. Awards of performance pay under this section shall be subject to the following limitations:

- (1) Not more than 33⁶² percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

⁶⁰22 U.S.C. 3965. Sec. 173 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 412), provided the following:

“SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.

“(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

“(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

“(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

“(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—* * *

⁶¹Sec. 2311(a)(1) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826) struck out “Members” and inserted in lieu thereof “Subject to subsection (e), members”.

⁶²Sec. 323 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “50” and inserted in lieu thereof “33”.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed \$10,000 in any fiscal year, except that payments of up to \$20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service.

(4)⁶³ Any award under this section shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code.

(5)⁶⁴ The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.

(c) The Secretary shall determine the amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under section 602.

(d) The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.⁶⁵ Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies.

(e)⁶⁶ Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service)

⁶³Sec. 173(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 412), amended and restated para. (b)(4). It previously read as follows:

"(4) The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect at the end of that fiscal year. Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."

⁶⁴Paragraph (5) was added by sec. 175(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1361).

⁶⁵Sec. 504(a) of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) inserted "Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section."

⁶⁶Sec. 2311(a)(2) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826) added subsec. (e).

by means other than an award of performance pay in lieu of making such an award under this section.

SEC. 406.⁶⁷ WITHIN-CLASS SALARY INCREASES.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

SEC. 407.⁶⁸ SALARIES FOR FOREIGN SERVICE PERSONNEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

SEC. 408.⁶⁹ LOCAL COMPENSATION PLANS.—(a)(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service and United States citizens employed under section 311(c)(1).⁷⁰ To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to United States citizens⁷¹ at a rate which is no less than the then applicable minimum wage rate specified in section 6(a)(1) of the

⁶⁷ 22 U.S.C. 3966.

⁶⁸ 22 U.S.C. 3967.

⁶⁹ 22 U.S.C. 3968.

⁷⁰ Sec. 180(a)(4)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), replaced the first sentence in subsec. (a)(1), which had provided: "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, United States citizens employed in the Service abroad who were hired while residing abroad, and for United States citizens employed in the Service abroad who are family members of Government employees."

⁷¹ Sec. 180(a)(4)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out "employed in the Service abroad who were hired while residing abroad and to those family members of Government employees who are paid in accordance with such plans" at this point.

Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). Any compensation plan established under this section may include provision for⁷² programs for voluntary transfers of such leave and voluntary leave banks, which shall, to the extent practicable, be established in a manner consistent with the provisions of subchapters III and IV, respectively, of chapter 63 of title 5, United States Code, and (C) payments by the Government and⁷³ employees to a trust or other fund in a financial institution in order to finance future benefits for⁷³ employees, including provision for retention in the fund of accumulated interest for the benefit of covered⁷³ employees.⁷⁴ For United States citizens under a compensation plan, the Secretary shall (A) provide such citizens with a total compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B) define those allowances and benefits provided under United States law which shall be included as part of the total compensation package,⁷⁵ notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act or the Internal Revenue Code.⁷⁶

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retire from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(3)⁷⁷ (A) Whenever a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the treasury (at the direction

⁷²Sec. 322(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “(A) leaves of absence with pay for employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code, (B)” at this point.

⁷³Sec. 180(a)(4)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out “foreign national” before “employees” at four points in the third sentence of subsec. (a)(1).

⁷⁴Sec. 127(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1026) added the clause designation “(A)” and the text of clause (B). Subsequently, sec. 148 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 670), redesignated (B) as (C), and inserted a new clause (B).

⁷⁵Sec. 322(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “this total compensation package” and inserted in lieu thereof “the total compensation package”.

⁷⁶Sec. 180(a)(4)(D) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), added the last sentence to subsec. (a)(1).

⁷⁷Sec. 141(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 35), added par. (3).

of the Secretary of State) shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan certified by the United State Government under a local compensation plan established for foreign national employees pursuant to this section (excluding local social security plans).

(B) For purposes of subparagraph (A), the phrase "employee's interest in the Civil Service Retirement and Disability Fund" means the total contributions of the employee and the employing agency with respect to such employee, pursuant to sections 8331(8) and 8334(a)(1) of title 5, United States Code, respectively, plus interest at the rate provided in section 8334(e)(3) of such title.

(C) Any such transfer shall void any annuity rights or entitlement to lump-sum credit under subchapter III of chapter 83 of such title.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals, are United States citizens employed in the Service abroad who were hired while residing abroad,⁷⁸ or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

SEC. 409.⁷⁹ SALARIES OF CONSULAR AGENTS.—The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

SEC. 410.⁸⁰ COMPENSATION FOR IMPRISONED FOREIGN NATIONAL EMPLOYEES.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or

⁷⁸ Sec. 152(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 672), inserted "are United States citizens employed in the Service abroad who were hired while residing abroad," after "foreign nationals".

⁷⁹ 22 U.S.C. 3969.

⁸⁰ 22 U.S.C. 3970.

she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to imprisoned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section.

(b) Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless it is expressly creditable under that subchapter; or

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

SEC. 411.⁸¹ TEMPORARY SERVICE AS PRINCIPAL OFFICER.—For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, United States Code, an amount equal to that portion (which the Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

SEC. 412.⁸² SPECIAL DIFFERENTIALS.—(a) The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

(b)⁸³ * * * [Repealed—1994]

⁸¹ 22 U.S.C. 3971.

⁸² 22 U.S.C. 3972.

⁸³ Sec. 139(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398) repealed subsec. (b), which had required:

“(b) Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.”

(c) Nothing in this Act, or in subchapter V of chapter 55 of title 5, United States Code, shall preclude the granting of compensatory time off for Foreign Service officers.

SEC. 413.⁸⁴ DEATH GRATUITY.—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(c) A death gratuity payment under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

(d) As used in this section—

(1) the term “Foreign Service employee” means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms “widow”, “widower”, “child”, and “parent” shall have the same meaning given each such term by section 8101 of title 5, United States Code.

SEC. 414.⁸⁵ BORDER EQUALIZATION PAY ADJUSTMENT.

(a) **IN GENERAL.**—An employee who regularly commutes from the employee's place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of title 5, United States Code, that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) **EMPLOYEE DEFINED.**—For purposes of this section, the term “employee” means a person who—

(1) is an “employee” as defined under section 2105 of title 5, United States Code; and

(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada

⁸⁴ 22 U.S.C. 3973.

⁸⁵ 22 U.S.C. 3974. Added by sec. 333(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536).

(established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 103).

(c) TREATMENT AS BASIC PAY.—An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5, United States Code.

(d) REGULATIONS.—The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

SEC. 501.⁸⁶ CLASSIFICATION OF POSITIONS.—The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salaries established under chapter 4. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations.

SEC. 502.⁸⁷ ASSIGNMENTS TO FOREIGN SERVICE POSITIONS.—(a)(1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to a position at a post in a particular geographic area exclusively on the basis of the race, ethnicity, or religion of that member.

(b) Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a career member of the Service to serve as chargé d'affaires or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 102(a)(3) by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

⁸⁶ 22 U.S.C. 3981.

⁸⁷ 22 U.S.C. 3982.

(d)⁸⁸ The Secretary of State, in conjunction with the heads of the other agencies utilizing the Foreign Service personnel system, shall implement policies and procedures to insure that Foreign Service officers and members of the Senior Foreign Service of all agencies are able to compete for chief of mission positions and have opportunities on an equal basis to compete for assignments outside their areas of specialization.

SEC. 503.⁸⁹ ASSIGNMENTS TO AGENCIES, INTERNATIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body;

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b)(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Assignments under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

SEC. 504.⁹⁰ SERVICE IN THE UNITED STATES AND ABROAD.—(a) Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service

⁸⁸ Sec. 130(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) added subsec. (d).

⁸⁹ 22 U.S.C. 3983.

⁹⁰ 22 U.S.C. 3984.

exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States (other than those employed in accordance with section 311)⁹¹ to duty within the United States at least once during each period of fifteen years that the member is in the Service.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, United States Code, which apply to sabbaticals granted to members of the Senior Executive Service.

SEC. 505.⁹² TEMPORARY DETAILS.—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this chapter.

CHAPTER 6—PROMOTION AND RETENTION

SEC. 601.⁹³ PROMOTIONS.—(a) Career members of the Senior Foreign Service are promoted by appointment under section 302(a) to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 303 to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 302(a) as career members of the Senior Foreign Service or by assignment under section 404 to a higher salary class in the Foreign Service Schedule.

(b) Except as provided in section 606(a), promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service).

shall be based upon the recommendations and rankings of selection boards established under section 602, except that the Secretary may by regulation specify categories of career members,⁹⁴ categories of career candidates, and other members of the Service⁹⁴ assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

⁹¹ Sec. 180(a)(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416) inserted "(other than those employed in accordance with section 311)" after "citizen of the United States".

⁹² 22 U.S.C. 3985.

⁹³ 22 U.S.C. 4001. See also sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 47); and sec. 155 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 675), relating to foreign language training and promotions in the Foreign Service.

⁹⁴ Sec. 180(a)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), struck out "and" after "career members," and inserted "and other members of the Service" after "career candidates".

(c)(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 607(a)) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

- (A) a regular, predictable flow of recruitment in the Service;
- (B) effective career development patterns to meet the needs of the Service; and
- (C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5, United States Code, shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

(4)⁹⁵ Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include the following:

- (A) A description of the steps taken and planned in furtherance of—
 - (i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

⁹⁵ Paragraph (4) was amended and restated by sec. 326 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536). As added by sec. 185(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), the para. formerly read as follows:

“(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

“(A) describe the steps taken and planned in furtherance of—

“(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

“(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

“(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

“(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.”.

(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204.

(B) A workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements.

(5)⁹⁶ If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4).

SEC. 602.⁹⁷ SELECTION BOARDS.—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

- (1) promotions in accordance with section 601;
- (2) awards of performance pay under section 405(c);
- (3) denials of within-class step increases under section 406(a);
- (4) offer or renewal of limited career extensions under section 607(b); and
- (5) such other actions as the Secretary may prescribe by regulation.

(b) All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

(c)⁹⁸ No public members appointed pursuant to this section may be, at the time of the appointment or during their appointment, an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938) or a lobbyist for a foreign entity (as defined in section 3(6) of the Lobbying Disclosure Act of 1995)⁹⁹ or receive income from a government of a foreign country.

SEC. 603.¹⁰⁰ BASIS FOR SELECTION BOARD REVIEW.—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general perform-

⁹⁶ Added by sec. 326 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536).

⁹⁷ 22 U.S.C. 4002.

⁹⁸ Sec. 142 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), added subsec. (c).

⁹⁹ Sec. 12(c) of Public Law 104-65 (109 Stat. 701) added “or a lobbyist for a foreign entity (as defined in section 3(6) of the Lobbying Disclosure Act of 1995)”.

¹⁰⁰ 22 U.S.C. 4003.

ance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the Foreign Service Institute, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service.

SEC. 604.¹⁰¹ RECORDS.—(a)¹⁰² The records described in section 603(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

(b)¹⁰³ Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 1107(b)(1), shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.

SEC. 605.¹⁰⁴ IMPLEMENTATION OF SELECTION BOARD RECOMMENDATIONS.—(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an indi-

¹⁰¹ 22 U.S.C. 4004.

¹⁰² Sec. 327(a)(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "CONFIDENTIALITY OF RECORDS" and inserted in lieu thereof "RECORDS.—(a)".

¹⁰³ Sec. 327(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added a new subsec. (b), applicable "to all disciplinary actions initiated on or after the date of enactment of this Act" [November 29, 1999], pursuant to sec. 327(b).

¹⁰⁴ 22 U.S.C. 4005.

vidual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

SEC. 606.¹⁰⁵ OTHER BASES FOR INCREASING PAY.—(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

- (1) recommend to the President a promotion of a member of the Service under section 302(a);
- (2) promote a member of the Service under section 303;
- (3) grant performance pay to a member of the Senior Foreign Service under section 405(c); or
- (4) grant a within-class salary increase under section 406 to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 605(b), the Secretary may, in special circumstances set forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

SEC. 607.¹⁰⁶ RETIREMENT FOR EXPIRATION OF TIME IN CLASS.—(a)(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

- (A) career members of the Senior Foreign Service,
- (B) Foreign Service officers, and
- (C) other career members of the Service who are in such occupational categories as may be designated by the Secretary and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitations) for a period which is at least as long as the shorter of—

- (A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or
- (B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable oppor-

¹⁰⁵ 22 U.S.C. 4006.

¹⁰⁶ 22 U.S.C. 4007.

tunity to be promoted into the next higher class or combination of classes, as the case may be.

(b) members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary, may continue to serve only under limited extensions of their career appointment. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 602. Members of the Service serving under such limited career extensions shall continue to be career members of the Service.

(c) Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 609, subject to any career extension under subsection (d) of this section.

(d) Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) If the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

SEC. 608.¹⁰⁷ RETIREMENT BASED ON RELATIVE PERFORMANCE.—

(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 609.

¹⁰⁷ 22 U.S.C. 4008.

SEC. 609.¹⁰⁸ RETIREMENT BENEFITS.—(a) A member of the Service—

- (1) who is retired under section 607(c)(2); or
- (2) who is retired under section 607(c)(1) or 608(b) or 611—

¹⁰⁹

(A) after becoming eligible for voluntary retirement under section 811 or any other applicable provision of chapter 84 of title 5, United States Code,¹¹⁰ or

(B) from the Senior Foreign Service or while assigned to class 1 in the Foreign Service Schedule, shall receive retirement benefits in accordance with section 806 or section 855, as appropriate.¹¹¹

(b) Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 607(c)(1) or 608(b) or 611¹¹² shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2)¹¹³ (A) for those participants in the Foreign Service Retirement and Disability System, a refund as provided in section 815 of the contributions made by the members to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 806, commencing at age 60; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851.¹¹⁴

¹⁰⁸ 22 U.S.C. 4009.

¹⁰⁹ Sec. 181(a)(3)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), inserted "or 611".

¹¹⁰ Sec. 2312(a)(1) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) inserted "or any other applicable provision of chapter 84 of title 5, United States Code," after "section 811" (resulting in a double comma).

¹¹¹ Sec. 2312(a)(2) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) added "or section 855, as appropriate" after "section 806". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under section 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

¹¹² Sec. 181(a)(3)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417) inserted "or 611".

¹¹³ Sec. 2312(a)(3)(A) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) struck out para. designation "(2)" and inserted in lieu "(2)(A) for those participants in the Foreign Service Retirement and Disability System.". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under section 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

¹¹⁴ Sec. 2312(a)(3)(B) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) inserted "; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under section 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

In the event that a member of the Service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60 (for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System),¹¹⁵ his or her death shall be considered a death in service within the meaning of section 809.

SEC. 610.¹¹⁶ SEPARATION FOR CAUSE.—(a)(1) The Secretary may separate any member from the Service for such cause as will promote the efficiency of the Service.

(2) Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member¹¹⁷ of the Service (other than a United States citizen employed under section 311 and who is not a family member)¹¹⁸ who is a member of the Senior Foreign Service or is assigned to a salary class in the Foreign Service Schedule and who either (A) is serving under a career appointment, or (B) if separation is to be by reason of misconduct, is serving under a limited appointment, shall not be separated from the Service under this section until the member has been granted a hearing before the Foreign Service Grievance Board and the cause for separation established at such hearing, unless the member waives in writing the right to a hearing or, notwithstanding section 1106(8) of this Act, unless the member has been convicted of a crime related to the cause for separation, subject to reinstatement with back pay (for any period during which separation for cause had not been established by such a hearing) if such conviction is reversed on appeal.¹¹⁹ If such cause is not established at such hearing, the Grievance Board shall have the authority to direct the Department to pay reasonable attorneys fees to the extent and in the manner provided by section 1107(b)(5) of this Act.¹²⁰ The hearing provided under this paragraph shall be in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other law. Section 1110 shall apply to proceedings under this paragraph.¹²¹

(3)¹²² Notwithstanding the hearing required by this section, or procedures under any other provision of law, where a member has

¹¹⁵Sec. 2312(a)(4) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) inserted "(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)" after "age 60".

¹¹⁶22 U.S.C. 4010.

¹¹⁷Sec. 2313 of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) struck out "A member" and inserted in lieu thereof "Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member".

¹¹⁸Sec. 1(h)(2) of Public Law 103-415 (108 Stat. 4300) inserted the parenthetical text after "A member of the Service".

¹¹⁹Sec. 143(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), inserted the end of this sentence, beginning with "or, notwithstanding section 1106(8)".

¹²⁰This sentence was added by sec. 181(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1364). Sec. 181(e) of the same Act provided that the amendment not apply with respect to any grievance in which the Board has issued a final decision pursuant to sec. 1107 of the Foreign Service Act of 1980 before its enactment.

¹²¹Sec. 143(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), added the last sentence to subsec. (a)(2).

¹²²Section 586(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1252) added para. (3), (4), and (5).

been convicted of a crime¹²³ for which a sentence of imprisonment may be imposed, and there is a nexus to the efficiency of the Service, the Secretary, or his designee, may suspend such member without pay pending final resolution of the underlying matter, subject to reinstatement with back pay if cause for separation is not established in a hearing before the Board.

(4)¹²² Any member suspended pursuant to subsection (a)(3) of this section shall be entitled to—

(A) advance written notice of the specific reasons for such suspension;¹²⁴

(B) a reasonable time, not less than seven days, to answer orally and in writing;

(C) be represented by an attorney or other representative; and

(D) a final written decision.

(5)¹²² Any member suspended pursuant to subsection (a)(3) of this section shall be entitled to grieve such action in accordance with procedures applicable to grievances under chapter 11. The Board review, however, shall be limited only to a determination of whether the conviction requirements of subsection (a)(3) have been fulfilled,¹²⁵ and whether there is a nexus between the conduct and the efficiency of the Service.

(6)¹²⁶ Notwithstanding the hearing required by paragraph (2), at the time the Secretary recommends that a member of the Service be separated for cause, that member shall be placed on leave without pay pending final resolution of the underlying matter, subject to reinstatement with back pay if cause for separation is not established in a hearing before the Board.

(b) Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 815 of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 806, commencing at age 60.

SEC. 611.¹²⁷ REDUCTIONS IN FORCE.—(a) The Secretary may conduct reductions in force and shall prescribe regulations for the sep-

¹²³ Sec. 143(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out “there is reasonable cause to believe that a members has committed a crime”, and inserted in lieu thereof “a member has been convicted of a crime”.

¹²⁴ Sec. 143(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out “suspension, including the grounds for reasonable cause to believe a crime has been committed”, and inserted in lieu thereof “suspension”.

¹²⁵ Sec. 143(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out “there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed”, and inserted in lieu thereof “the conviction requirements of subsection (a)(3) have been fulfilled”.

¹²⁶ Sec. 328 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added para. (6).

¹²⁷ 22 U.S.C. 4010a. Sec. 181(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), added sec. 611 (with a subsequent technical amendment in sec. 1(ii) of Public Law 103-415 (108 Stat. 4303)) to make the section heading

aration of members of the Service holding a career or career candidate appointment under chapter 3 of this Act, under such reductions in force which give due effect to the following:

- (1) Organizational changes.
- (2) Documented employee knowledge, skills, or competencies.
- (3) Tenure of employment.
- (4) Documented employee performance.
- (5) Military preference, subject to section 3501(a)(3) of title 5, United States Code.

(b) The provisions of section 609 shall be applicable to any member of the Service holding a career or career candidate appointment under chapter 3 of this Act, who is separated under the provisions of this section.

(c) An employee against whom action is taken under this section may elect either to file a grievance under chapter 11 or to appeal to the Merit Systems Protection Board under procedures prescribed by the Board. Grievances under chapter 11 shall be limited to cases of reprisal, interference in the conduct of an employee's official duties, or similarly inappropriate use of the authority of this section.

SEC. 612.¹²⁸ TERMINATION OF LIMITED APPOINTMENTS.—Except as provided in section 610(a)(2), the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.¹²⁹

SEC. 613.¹³⁰ TERMINATION OF APPOINTMENTS OF CONSULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—(a) The Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances.

conform with the rest of the Act). Former secs. 611, 612, and 613 were redesignated as secs. 612, 613, and 614, respectively, by sec. 181(a)(1) of that Act.

Sec. 179 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), provided the following:

“SEC. 179. EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE.

“(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

“(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term ‘members of the Foreign Service’ means any individual holding a career or career candidate appointment under chapter 3 of the Foreign Service Act of 1980.”

Sec. 181(c) of Public Law 103-236 (108 Stat. 418) provided:

“(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency [sic] shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.”

¹²⁸22 U.S.C. 4011. Redesignated from sec. 611 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416).

¹²⁹Sec. 180(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), struck out “, or who is a family member of a Government employee serving under a local compensation plan established under section 408.” after “Foreign Service Schedule” and inserted in lieu thereof “or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.”

¹³⁰22 U.S.C. 4012. Redesignated from sec. 612 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416). See also sec. 151 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 672; 22 U.S.C. 4012a), relating to separation pay for foreign national employees.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

SEC. 614.¹³¹ FOREIGN SERVICE AWARDS.—The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health. Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.¹³²

CHAPTER 7—CAREER DEVELOPMENT, TRAINING, AND ORIENTATION¹³³

SEC. 701.¹³⁴ INSTITUTION FOR TRAINING.—(a)¹³⁵ INSTITUTION OR CENTER FOR TRAINING.—The Secretary of State shall maintain and operate an institution or center for training (hereinafter in this chapter referred to as the “institution”),¹³⁶ originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The institution¹³⁷ shall be headed by a Director, who shall be appointed by the Secretary of State.

(b) To the extent practicable, the Secretary of State shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the institution¹³⁸ and otherwise.

¹³¹ 22 U.S.C. 4013. Redesignated from sec. 614 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416).

¹³² Sec. 504(b) of the International Religious Freedom Act of 1998 (Public Law 105(292; 112 Stat. 2811) added this sentence.

¹³³ Sec. 126(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “Foreign Service Institute,” preceding “Career Development” in the chapter title.

¹³⁴ 22 U.S.C. 4021. Sec. 126(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out “Foreign Service Institute” as the section title and inserted in lieu thereof “Institute for Training.” Sec. 1(y) of Public Law 103-415 (108 Stat. 4302) made a similar amendment.

See also secs. 191 and 192 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), relating to foreign language competence and foreign language resources coordinator.

¹³⁵ Sec. 126(2)(B)(i) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) amended subsection (a) “by striking the subsection heading and inserting ‘Institution or Center for Training’”. Subsec. (a), however, did not have a heading to strike.

¹³⁶ Sec. 126(2)(B)(ii) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “the Foreign Service Institute (hereinafter in this chapter referred to as the ‘Institute’),” and inserted in lieu thereof “an institution or center for training (hereinafter in this chapter referred to as the ‘institution’)”.

¹³⁷ Sec. 126(2)(B)(iii) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “Institute” and inserted in lieu thereof “institution”.

¹³⁸ Sec. 126(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 394), struck out “Foreign Service Institute” and “Institute” each place such terms appeared and inserted “institution” in secs. 701(b), 702, 704, 705, and 707.

(c)¹³⁹ Training and instruction may be provided at the Institute¹⁴⁰ for not to exceed sixty citizens of the Trust Territory of the Pacific Islands in order to prepare them to serve as members of the foreign services of the Federated States of Micronesia, the Marshall Islands, and Palau. The authority of this subsection shall expire when the Compact of Free Association is approved by the Congress.

(d)¹⁴¹ (1) The Secretary of State is authorized to provide for special professional foreign affairs training and instruction of employees of foreign governments through the institution.

(2) Training and instruction under paragraph (1) shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances to the Department of State may be provided by an agency of the United States Government or by a foreign government and shall be credited to the currently available applicable appropriation account.

(3) In making such training available to employees of foreign governments, priority consideration should be given to officials of newly emerging democratic nations and then to such other countries as the Secretary determines to be in the national interest of the United States.

(e)¹⁴² (1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

(4) Training and related services under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

(5) In this subsection, the term 'United States person' means—

(A) any individual who is a citizen or national of the United States; or

¹³⁹Sec. 126 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1026) added subsec. (c).

¹⁴⁰As enrolled. Should probably read "institution".

¹⁴¹Sec. 126(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) added subsec. (d).

¹⁴²Sec. 2205(a)(1) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808) redesignated the para. (4) of subsec. (d) as subsec. (g) and added new subssecs. (e) and (f). Sec. 2205(a)(2) and (3) of that Act, however, further provided the following:

"(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 1998.

"(3) TERMINATION OF PILOT PROGRAM.—Effective October 1, 2002, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

"(A) by striking subsections (e) and (f); and

"(B) by redesignating subsection (g) as paragraph (4) of subsection (d)."

(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

(f)(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations."

(g)¹⁴² The authorities of section 704 shall apply to training and instruction provided under this section.

SEC. 702.¹⁴³ FOREIGN LANGUAGE REQUIREMENTS.—(a) The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located.

(b) The Secretary of State shall arrange for appropriate language training of members of the Service by the institution¹³⁸ or otherwise in order to assist in meeting the requirements established under subsection (a).

(c)¹⁴⁴ Not later than March 31 of each year, the Director General of the Foreign Service shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives summarizing the number of positions in each overseas mission requiring foreign language competence that—

(1) became vacant during the previous calendar year; and

(2) were filled by individuals having the required foreign language competence.

SEC. 703.¹⁴⁵ CAREER DEVELOPMENT.—(a) The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in the basic functions of

¹⁴³ 22 U.S.C. 4022.

¹⁴⁴ Sec. 208(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added subsec. (c).

¹⁴⁵ 22 U.S.C. 4023.

analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare the officers progressively for more senior levels of responsibility.

(c) At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete midcareer training before appointment to the Senior Foreign Service.

(d) In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

(f) ¹⁴⁶ * * * [Repealed—1987]

SEC. 704.¹⁴⁷ TRAINING AUTHORITIES.—(a) In the exercise of functions under this chapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the institution,¹³⁸ including functional and geographic area specializations;

(2) correlate training and instruction furnished by the institution¹³⁸ with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the institution,¹³⁸ including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as language instructors, linguists, and other academic and training specialists (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions

¹⁴⁶ Subsec. (f) was repealed by sec. 185(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366). It required that the Secretary of State report annually on the status of the professional development program.

¹⁴⁷ 22 U.S.C. 4024.

of this chapter without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 412)¹⁴⁸ of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

(d)¹⁴⁹ (1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

(2) As used in this subsection, the term “consular function” includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.

SEC. 705.¹⁵⁰ TRAINING GRANTS.—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language train-

¹⁴⁸Sec. 125(1) of Public Law 97-241 (96 Stat. 281) struck “411” and inserted in lieu thereof “412”.

¹⁴⁹Sec. 2222(f) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-819) added subsec. (d).

¹⁵⁰22 U.S.C. 4025.

ing furnished by the Government through the institution¹³⁸ or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

SEC. 706.¹⁵¹ CAREER COUNSELING.—(a) In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause. Career counseling and related services provided pursuant to this Act shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month.¹⁵²

(b)(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

SEC. 707.¹⁵³ VISITING SCHOLARS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is authorized to be established at the institution¹³⁸ a program whereby selected scholars would participate fully in the educational and training activities of the institution.¹³⁸ This program may be referred to as the “Visiting Scholars Program”.

(b) SELECTION AND APPOINTMENT OF SCHOLARS.—

(1) Scholars participating in the Visiting Scholars Program shall be selected by a five-member board described in subsection (c).

(2) Each visiting scholar shall serve a term of one year, except that such term may be extended for one additional one-year period.

(c) ESTABLISHMENT OF SELECTION BOARD.—The board referred to in subsection (b) shall be composed of the director of the institution,¹³⁸ who shall serve as chairperson, and four other members appointed by the Secretary of State.

SEC. 708.¹⁵⁴ TRAINING FOR FOREIGN SERVICE OFFICERS.

(a)¹⁵⁵ The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International

¹⁵¹ 22 U.S.C. 4026.

¹⁵² Sec. 2314(a) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) added the sentence that begins “Career counseling and related...”. The amendment is effective 180 days after the date of enactment [Oct. 21, 1998], pursuant to sec. 2314(b).

¹⁵³ 22 U.S.C. 4027. Sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), added sec. 707.

¹⁵⁴ 22 U.S.C. 4028. Sec. 104 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2795) added sec. 708.

Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998 and the director of the National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission; and

(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom.

(b)¹⁵⁵ The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.

¹⁵⁵Sec. 602(b) of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2812) inserted “(a)” before “The Secretary”, and added subsec. (b).

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY¹⁵⁶SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM¹⁵⁷

SEC. 801.¹⁵⁸ ADMINISTRATION OF THE SYSTEM.—In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this subchapter¹⁵⁹ referred to as the “System”), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 802.¹⁶⁰ MAINTENANCE OF THE FUND.—The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this sub-

¹⁵⁶The Department of State Special Agents Retirement Act of 1998 (Public Law 105-382; 112 Stat. 3406) made numerous amendments to this chapter. Section 4 of that Act (22 U.S.C. 4044 note), as amended, provides:

“SEC. 4. EFFECTIVE DATE; APPLICABILITY.

“(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act—

“(1) shall take effect on the date of the enactment of this Act; and

“(2) shall apply with respect to—

“(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual’s annuity computed in conformance with section 806(a)(6) of the Foreign Service Act; and

“(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

“(b) ELECTION FOR CURRENT PARTICIPANTS.—

“(1) ELIGIBILITY.—An election under this subsection may be made by any currently employed participant or participant who was serving as of January 1, 1997 under chapter 8 of the Foreign Service Act of 1980 who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

“(2) EFFECT OF AN ELECTION.—

“(A) IN GENERAL.—If an individual makes an election under this subsection, the amendments made by this Act shall become applicable with respect to such individual, subject to subparagraph (B).

“(B) TREATMENT OF PRIOR SERVICE.—

“(i) SPECIAL CONTRIBUTION.—An individual may, after making the election under this subsection, make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 (as amended by section 2), including provisions relating to the computation of interest.

“(ii) ACTUARIAL REDUCTION.—

“(I) RULE IF THE SPECIAL CONTRIBUTION IS PAID.—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

“(II) RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

“(c) REGULATIONS AND NOTICE.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State—

“(1) shall promulgate such regulations as may be necessary to carry out this Act; and

“(2) shall take measures reasonably designed to provide notice to participants as to any rights they might have under this Act.

“(d) ELECTION DEADLINE.—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

“(e) DEFINITION.—For purposes of this section, the term ‘special agent’ has the meaning given such term under section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)), as amended by section 2(a).”

¹⁵⁷See also the retained provisions of the Foreign Service Retirement Amendments of 1976. The heading for subchapter I was added by sec. 402(a)(1) of Public Law 99-335 (100 Stat. 609).

¹⁵⁸22 U.S.C. 4041.

¹⁵⁹Section 402(a) and sec. 402(a)(2) of Public Law 99-335 (100 Stat. 609), substituted the words “this subchapter” in lieu of “this chapter” throughout chapter 8, and inserted the words “under this subchapter” after “payable from the Fund” each time it appears.

¹⁶⁰22 U.S.C. 4042.

chapter¹⁵⁹ referred to as the “Fund”), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 803.¹⁶¹ PARTICIPANTS.—(a) Except as provided in subsection (d),¹⁶² the following members of the Service (hereinafter in this subchapter¹⁵⁹ referred to as “participants”) shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 306—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 805.

(b) Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

(c) In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 805(d) or (f).

(d)¹⁶³ An individual subject to the Foreign Service Pension System (described in subchapter II) is not a participant in this System.

SEC. 804.¹⁶⁴ DEFINITIONS.—As used in this subchapter,¹⁵⁹ unless otherwise specified, the term—

(1) “annuitant” means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim for such annuity;

(2) “child” means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

(B) who is unmarried; and

¹⁶¹ 22 U.S.C. 4043.

¹⁶² The text of subsec. (a) to this point was added by sec. 414(1) of Public Law 99-335 (100 Stat. 614).

¹⁶³ Subsec. (d) was added by sec. 414(2) of Public Law 99-335 (100 Stat. 614).

¹⁶⁴ 22 U.S.C. 4044.

(C) who—

(i) is under the age of 18 years,

(ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or

(iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;

(3) “court” means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled ‘An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes’, approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77);¹⁶⁵

(4) “court order” means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;

(5) “Foreign Service normal cost” means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;

(6) “former spouse” means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;

(7) “Fund balance” means the sum of—

(A) the investments of the Fund calculated at par value,

plus

(B) the cash balance of the Fund on the books of the Treasury;

(8) “lump-sum credit” means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity);

¹⁶⁵ The text from this point to the end of subsec. (3) was substituted in lieu of the language “of the District of Columbia” by sec. 403 of Public Law 99-335 (100 Stat. 609).

(9) “military and naval service” means honorable active service—

- (A) in the Armed Forces of the United States,
- (B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or
- (C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961.

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) “pro rata share”, in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service (creditable under subchapter I or II)¹⁶⁶ of that participant is of (B) the total number of years of such creditable service (creditable under subchapter I or II);¹⁶⁶

(11) “spousal agreement” means any written agreement between—

- (A) a participant or former participant; and
- (B) his or her spouse or former spouse;

(12) “student” means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) “surviving spouse” means the surviving wife or husband of a participant or annuitant who¹⁶⁷ was married to the participant or annuitant for at least 9 months¹⁶⁸ immediately preceding his or her death or is a parent of a child born of the marriage,¹⁶⁹ except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

- (A) the death of such participant or annuitant was accidental; or
- (B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months;

¹⁶⁶The text in parentheses was added by sec. 404(a) of Public Law 99-335 (100 Stat. 610).

¹⁶⁷Sec. 211(1) of Public Law 100-238 (101 Stat. 1773) struck out “, in the case of death in service or marriage after retirement,” at this point.

¹⁶⁸Sec. 211(2) of Public Law 100-238 (101 Stat. 1773) struck out “one year” and inserted in lieu thereof “9 months”.

¹⁶⁹Sec. 211(3) of Public Law 100-238 (101 Stat. 1773) added text from this point to par. (14).

(14) “unfunded liability” means the estimated excess of the present value of all benefits payable from the Fund over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus

(B) the present value of Government payments to the Fund under section 821, plus

(C) the Fund balance as of the date the unfunded liability is determined; and

(15)¹⁷⁰ “special agent” means an employee of the Department of State with a primary skill code of 2501—

(A) the duties of whose position—

(i) are primarily—

(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; or

(II) the protection of persons pursuant to section 2709(a)(3) of title 22, United States Code, against threats to personal safety; and

(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Secretary of State pursuant to section 4823 of title 22, United States Code;

(B) performing duties described in subparagraph (A) before, on, or after the date of the enactment of this paragraph; or

(C) transferred directly to a position which is supervisory or administrative in nature after performing duties described in subparagraph (A) for at least 3 years.

¹⁷⁰Sec. 2(a)(1) of Public Law 105-382 (112 Stat. 3406) struck out “and” at the end of para. (13); replaced the period at the end of para. (14) with “; and”; and added a new para. (15).

SEC. 805.^{171, 172} CONTRIBUTIONS TO THE FUND.—(a)(1)¹⁷³ Except as otherwise provided in this section,¹⁷⁴ 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the Department.

(2)¹⁷³ Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to

¹⁷¹ 22 U.S.C. 4045.

¹⁷² Sec. 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-54), provided the following:

“(h) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—Notwithstanding any provision of section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)), during the period beginning on October 1, 2002, through December 31, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

“(1) 7.5 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

“(2) 8 percent of the basic pay of each participant covered under paragraph (2) or (3) of section 805(a) of such Act participating in the Foreign Service Retirement and Disability System, in lieu of the agency contribution otherwise required under section 805(a) of such Act.”

Sec. 7001(d) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 659), as amended by sec. 505(d)(1) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-53), provided the following increased contributions to Federal Civilian Retirement Systems:

“(d) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

“(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a)(1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

“(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

“(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System;

“in lieu of the agency contribution otherwise required under section 805(a)(1) and (2) of such Act.

“(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

“(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

“7.25 January 1, 1999, to December 31, 1999.

“7.4 January 1, 2000, to December 31, 2000.

“(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

“7.75 January 1, 1999, to December 31, 1999.

“7.9 January 1, 2000, to December 31, 2000.”

¹⁷³ Sec. 4(a) of Public Law 102-499 (106 Stat. 3265) added par. designation (1) after (a), and added a new par. (2).

¹⁷⁴ Sec. 2(b)(2) of Public Law 105-382 (112 Stat. 3407) struck out “Except as provided in subsection (h),” and inserted in lieu thereof “Except as otherwise provided in this section.”. Previously, sec. 405(a)(1) of Public Law 99-335 (100 Stat. 610) added the opening clause.

section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the Department.

(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.

(3)¹⁷⁵ For service as a special agent, paragraph (1) shall be applied by substituting for “7 percent” the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c)(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Gov-

¹⁷⁵ Sec. 2(b)(1) of Public Law 105-382 (112 Stat. 3407) added para. (3).

ernment retirement fund at a higher rate than that fixed by subsection (d).

(d)(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited, may make a special contribution to the Fund. Special contributions for purposes of subparagraph (A) shall equal¹⁷⁶ the following percentages of basic salary received for such service:¹⁷⁷

	<i>Percent of basic salary</i>
Time of service:	
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
January 1, 1970, through December 31, 1998, inclusive	7
January 1, 1999, through December 31, 1999, inclusive	7.25
January 1, 2000, through December 31, 2000, inclusive	7.4
After December 31, 2000	7

Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.¹⁷⁸

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 816.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter.¹⁷⁹ No interest shall be charged on special contributions for

¹⁷⁶ Sec. 212(1) of Public Law 100-238 (101 Stat. 1773) struck out “equal to” at this point and inserted in lieu thereof “. Special contributions for purposes of subparagraph (A) shall equal”.

¹⁷⁷ Sec. 7001(d)(2)(C) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 660) struck out “On and after January 1, 1970..... 7” from the time of service table, and inserted in lieu thereof the text that addresses time of service dates from January 1, 1970 through (and after) December 31, 2002. Sec. 505(d)(2) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-53), struck out “January 1, 2001, through December 31, 2002, inclusive..... 7.5” and “After December 31, 2002..... 7” and inserted in lieu thereof the text that addresses time of service dates after December 31, 2000.

¹⁷⁸ Sec. 212(2) of Public Law 100-238 (101 Stat. 1773) added text from “Special contributions”.

¹⁷⁹ Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following: “Section 1. Interest Rates, Deposits, Refunds, and Redeposits. (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4054(d)(3)), the first sentence to Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

“(b) * * *

“(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contribu-

any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(4)¹⁸⁰ Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 853(c) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.

(5)¹⁸¹ Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.

(6)¹⁸² Subject to paragraph (4) and subsection (h), for purposes of applying this subsection with respect to prior service as a special agent, the percentages of basic pay set forth in section 8334(c) of title 5, United States Code, with respect to a law enforcement officer, shall apply instead of the percentages set forth in paragraph (1).

(e)¹⁸³ (1) Subject to paragraph (5), each¹⁸⁴ participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) the effective date of this Order, or

(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees—

tions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order.”

¹⁸⁰ Paragraph (4) was added by sec. 405(b) of Public Law 99-335 (100 Stat. 610).

¹⁸¹ Sec. 4(b) of Public Law 102-499 (106 Stat. 3265) added par. (5).

¹⁸² Sec. 2(c) of Public Law 105-382 (112 Stat. 3407) added para. (6).

¹⁸³ Sec. 4(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 28443) redesignated existing subsec. (e) as subsec. (g) and added new subsecs. (e) and (f), effective October 17, 1983.

¹⁸⁴ Sec. 7001(d)(2)(D)(i) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) struck out “Each” and inserted in lieu thereof “Subject to paragraph (5), each”.

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

(5)¹⁸⁵ Effective with respect to any period of military or naval service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334 (c) of title 5, United States Code, for that same period for service as an employee.

(f)¹⁸³ Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) and section 816(a), except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 for periods of internment during World War II.

(g)¹⁸³ A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

(h)¹⁸⁶ Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 853(c) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5, United States Code, were applicable.

SEC. 806.¹⁸⁷ COMPUTATION OF ANNUITIES.—(a)¹⁸⁸ (1)¹⁸⁹ The annuity of a participant shall be equal to 2 percent of his or her basic

¹⁸⁵ Sec. 7001(d)(2)(D)(ii) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) added para. (5).

¹⁸⁶ Subsection (h) was added by sec. 405(a)(2) of Public Law 99-335 (100 Stat. 610).

¹⁸⁷ 22 U.S.C. 4046.

¹⁸⁸ Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

“Section 1. Interest Rates, Deposits, Refunds, and Redeposits.

“(a) * * *

“(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) of the Act unless—

“(1) the participant makes a contribution for such period as provided in such section 805(d); or

“(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

“(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuances of this Order.”

¹⁸⁹ Sec. 587(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2055) inserted “(1)” after “(a)”, and added paragraphs (2) through (6).

salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 816 and 817, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 302(b), to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 805(d) which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

(6)¹⁹⁰ (A) The annuity of a special agent under this subchapter shall be computed under paragraph (1) except that, in the case of a special agent described in subparagraph (B), paragraph (1) shall be applied by substituting for “2 percent”—

(i) the percentage under subparagraph (A) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder; and

(ii) the percentage under subparagraph (B) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder.

(B) A special agent described in this subparagraph is any such agent or former agent who—

(i)(I) retires voluntarily or involuntarily under section 607, 608, 611, 811, 812, or 813, under conditions authorizing an immediate annuity, other than for cause on charges of misconduct or delinquency, or retires for disability under section 808; and

(II) at the time of retirement—

(aa) if voluntary, is at least 50 years of age and has completed at least 20 years of service as a special agent; or

(bb) if involuntary or disability, has completed at least 20 years of service as a special agent; or

(ii) dies in service after completing at least 20 years of service as a special agent, when an annuity is payable under section 809.

(C) For purposes of subparagraph (B), included with the years of service performed by an individual as a special agent shall be any service performed by such individual as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or a member of the Capitol Police.

(7)¹⁹⁰ In the case of a special agent who becomes or became subject to subchapter II—

(A) for purposes of paragraph (6)(B), any service performed by the individual as a special agent (whether under this subchapter or under subchapter II), as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or as a member of the Capitol Police shall be creditable; and

(B) if the individual satisfies paragraph (6)(B), the portion of such individual’s annuity which is attributable to service under the Foreign Service Retirement and Disability System or the Civil Service Retirement System shall be computed in conformance with paragraph (6).

¹⁹⁰Sec. 2(d)(1) of Public Law 105-382 (112 Stat. 3407) redesignated former para. (6) as para. (7) and added a new para. (6). Sec. 2(d)(2) of that Act further amended the section by redesignating new para. (7) as para. (8), and adding a new para. (7).

(8)¹⁹⁰ For purposes of paragraphs (2), (3), (4), and (6)¹⁹¹ of this subsection, the term “basic pay” includes pay as provided in accordance with section 412 of this Act or section 5545(c)(2)¹⁹² of title 5, United States Code.

(b)(1)(A) Except to the extent provided, otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 814(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 814(b) if the spouse later qualifies as a former spouse under section 804(6)), or to reduce such survivor annuity under this section (or section 814(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 814(b) may not exceed the portion of the participant’s annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive a survivor annuity under section 814(b) for that former spouse if the election is made (i) before the end of the 24-month¹⁹³ period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant’s spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 814(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 814(a)(5).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 per-

¹⁹¹ Sec. 2(d)(3)(A) of Public Law 105-382 (112 Stat. 3408) struck out “and (4)” and inserted in lieu thereof “(4), and (6)”.

¹⁹² Sec. 4(d) of Public Law 102-499 (106 Stat. 3266) struck out “section 5545(a)(2) and inserted in lieu thereof “section 5545(c)(2)”.

¹⁹³ Sec. 213(a) of Public Law 100-238 (101 Stat. 1774) struck out “12-month” and inserted in lieu thereof “24-month”.

cent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 814(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 814(b)(4)(B).

(C) An annuity payable from the Fund under this subchapter¹⁵⁹ to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c)(1) If an annuitant who was a participant dies and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant¹⁹⁴ and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) \$900, or

(B) \$2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant¹⁹⁴ but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) \$1,080, or

(B) \$3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 826(c)(3), and

(B) the minimum specified in subsection (1)(2) of this section.

(d) On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant.¹⁹⁵ If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child

¹⁹⁴ Sec. 214(a)(1) of Public Law 100-238 (101 Stat. 1774) inserted language beginning with "or a former spouse" here.

¹⁹⁵ Sec. 214(a)(2) of Public Law 100-238 (101 Stat. 1774) amended the first sentence of subsec. (d). It formerly read as follows: "If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant."

becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to provide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 804(13)). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b) (2) and (3). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(i)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 823 shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 823 in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under this subchapter.¹⁹⁶

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 814 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 814(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 814.

(l) ¹⁹⁷ * * * [Repealed—1988]

(m) ¹⁹⁸ The retirement, disability, or survivor annuity payable to any person based on the service of an individual subject to section 805(h) beginning with the first day of the month for which such person first becomes—

(1) eligible for an annuity under this subchapter ¹⁵⁹ based on the service of such individual, and

(2) entitled, or would, upon proper application, be entitled to old age, disability, or survivor benefits under title II of the Social Security Act based on the service of such individual under this subchapter,¹⁵⁹

shall be computed as if section 8349 of title 5, United States Code, were applicable.

(n) ¹⁹⁸ (1)(A) A participant—

(i) who, at the time of retirement, is married; and

(ii) who elects at such time (in accordance with subsection

(b)) to waive a survivor annuity,

¹⁹⁶ Sec. 213(b) of Public Law 100-238 (101 Stat. 1774) struck out “section 814(b)” and inserted in lieu thereof “this subchapter”.

¹⁹⁷ Sec. 217(c)(1) of Public Law 100-238 (101 Stat. 1775) repealed subsec. (l).

¹⁹⁸ Subsections (m) and (n) were added respectively by secs. 406 and 407 of Public Law 99-335 (100 Stat. 610, 611). Subsec. (m) was substantially restated by Public Law 99-556 (100 Stat. 3136).

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

(B) A participant—

(i) who, at the time of retirement, is married, and

(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the former participant commences and the date of the election) between the amount paid to such former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

(ii) interest on the additional cost determined under clause (i)(I) of this subparagraph computed using the interest rate specified or determined under section 805(d)(3) for the calendar year in which the amount to be deposited is determined.

(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

SEC. 807.¹⁹⁹ PAYMENT OF ANNUITY.—(a)²⁰⁰ (1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

(A) separation from the Service occurs; or

¹⁹⁹ 22 U.S.C. 4047.

²⁰⁰ Sec. 3(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) amended and restated subsec. (a). This amendment became effective on November 16, 1983.

(B) pay ceases and the service and age requirements for entitlement to annuity are met.

(2) The annuity of—

(A) a participant who is retired and is eligible for benefits under section 609(a) or a participant who is retired under section 813 or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

(B) a participant retiring under section 808 due to a disability, and

(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waiver may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayments under this subchapter¹⁵⁹ may not be made from an individual when, in the judgment of the Secretary of State, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

(e)²⁰¹ (1) The Secretary of State shall prescribe regulations under which any participant who has a life-threatening affliction or other critical medical condition may,²⁰² at the time of retiring under this subchapter (other than under section 808), elect annuity benefits under this section instead of any other benefits under this subchapter (including survivor benefits) based on the service of the participant.

(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secretary considers appropriate, except that among the alternatives offered shall be—

(A) an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

(ii) payment of an annuity to the participant for life; and

(B) in the case of a participant who is married at the time of retirement, an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

²⁰¹ Subsec. (e) was added by sec. 408 of Public Law 99-335 (100 Stat. 612).

²⁰² Effective October 1, 1994, sec. 11002(b) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 409) struck out "a participant may" and inserted in lieu thereof "any participant who has a life-threatening affliction or other critical medical condition may". The effective date of October 1, 1994, was pursuant to subsec. (c) of that section.

- (ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.
- (3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this subchapter, as computed under section 806(a).
- (4) A participant who, at the time of retiring under this subchapter—
- (A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 806(b)(1)(B); or
- (B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a waiver has been made under section 806(b)(1)(C).
- (5) A participant who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 806(n), subject to the deposit requirement thereunder.
- (6) Notwithstanding any other provision of law, any lump-sum credit provided to an election under this subsection shall not preclude an individual from receiving any other benefits under this subsection.

SEC. 808.²⁰³ RETIREMENT FOR DISABILITY OR INCAPACITY.—(a) Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 806. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 60.²⁰⁴

However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in Section 8332(c) (1) or (2) of title 5 of the United States Code) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus

²⁰³ 22 U.S.C. 4048.

²⁰⁴ Sec. 215(a) of Public Law 100-238 (101 Stat. 1774) struck out "65" and inserted "60".

the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of title 5 of the United States Code, or the Veterans' Administration pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this chapter in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this subchapter.^{159, 205}

(b) Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 60.²⁰⁴ If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date of 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

(c) If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 810 as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 815, except that he or she may elect voluntary retirement if eligible under section 811.

(d) No participant shall be entitled to receive an annuity under this subchapter²⁰⁶ and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This subsection shall not bar the

²⁰⁵The final two sentences of subsection (a) of sec. 808 were added by sec. 2 of Executive Order 12289 (February 14, 1981; 46 F.R. 12693).

²⁰⁶The word "subchapter" was substituted for the word "Act" by section 402(b) and (c) of Public Law 99-355 (100 Stat. 609).

right of any claimant to the greater benefit conferred by either this subchapter²⁰⁶ or subchapter I of such chapter 8²⁰⁷ for any part of the same period of time. Neither this subsection nor any provision of subchapter I of such chapter 8²⁰⁷ shall be construed to deny the right of any participant to receive an annuity under this subchapter²⁰⁶ and to receive concurrently any payment under such subchapter I of such chapter 8²⁰⁷ by reason of the death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this subchapter²⁰⁶ shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this subchapter²⁰⁶ which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

SEC. 809.²⁰⁸ DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this subchapter,²⁰⁹ the lump-sum credit shall be paid in accordance with section 815.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55

²⁰⁷The words "subchapter I of such chapter 8" were substituted in lieu of the words "such subchapter" by sec. 402(b)(1)(A) of Public Law 99-355 (100 Stat. 609). Should probably read "chapter 81".

²⁰⁸22 U.S.C. 4049.

²⁰⁹The word "subchapter" was substituted for "Act" by section 402(b) and (c) of Public Law 99-355 (100 Stat. 609).

percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this subchapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant,²¹⁰ and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is not survived by a spouse, or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant,²¹¹ but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 806.

(e) If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 806 on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 60.²¹² In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant entitled to a reduced annuity dies in service after being recalled under section 308 and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the deceased had been resumed in accordance with section 823. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 806(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving

²¹⁰Sec. 214(b)(1) of Public Law 100-238 (101 Stat. 1774) inserted language to this point, beginning with "or a former spouse".

²¹¹Sec. 214(b)(2) of Public Law 100-238 (101 Stat. 1774) inserted language to this point, beginning with "or a former spouse".

²¹²Sec. 215(b) of Public Law 100-238 (101 Stat. 1774) struck out "65" and inserted "60".

spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this chapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

(g) Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 814(b), the annuity of the spouse under this section shall be subject to the limitation of section 806(b)(3)(B).

(h) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 806, as appropriate.

SEC. 810.²¹³ DISCONTINUED SERVICE RETIREMENT.—Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 815, or to leave his or her contributions in the Fund and receive an annuity, computed under section 806, commencing at age 60.

SEC. 811.²¹⁴ VOLUNTARY RETIREMENT.—Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 806. The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant had been covered under the Civil Service Retirement System rather than subject to this chapter while a member of the Service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5, United States Code, if all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay or contributed by the employer, and deposited into the Fund during the period he or she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.²¹⁵

²¹³ 22 U.S.C. 4050.

²¹⁴ 22 U.S.C. 4051.

²¹⁵ Sec. 216 of Public Law 100-238 (101 Stat. 1774) added language from "The Secretary shall withhold".

SEC. 812.²¹⁶ MANDATORY RETIREMENT.—(a)(1)²¹⁷ Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 806.

(2)²¹⁸ Notwithstanding paragraph (1)—

(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this chapter; or

(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B) attains 57 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completed a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

²¹⁶ 22 U.S.C. 4052. Sec. 2403(d)(1) of this Act specified that sec. 812 would be effective on the date of enactment of the Act (October 17, 1980).

²¹⁷ Sec. 587(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2056) inserted "(1)" after "(a)", and added a new paragraph (2).

²¹⁸ Sec. 3 of Public Law 105-382 (112 Stat. 3408) amended and restated the first sentence of para. (2). It had formerly read as follows: "Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 57 years of age or completes 20 years of service if then over that age."

SEC. 813.²¹⁹ REASSIGNMENT AND RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.—

(a) A participant, who completes an assignment under section 302(b) in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.

(b) A participant who completes an assignment under section 302(b) in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 806 or section 855, as appropriate.

(c) A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.

SEC. 814.²²⁰ FORMER SPOUSES.—(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity²²¹ if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

²¹⁹ 22 U.S.C. 4053. Sec. 174 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 413), amended and restated sec. 813 after the section caption. It formerly read as follows:

“(a) Except as provided under subsection (b), a participant, who completes an assignment under section 302(b) in a position to which he or she was appointed by the President, shall be offered reassignment within 90 days after the termination of such assignment and any period of authorized leave.

“(b) Subsection (a) shall not apply with respect to a participant, if the Secretary of State determines that reassignment of the participant is not in the interest of the United States and the Foreign Service.

“(c) A participant who is not reassigned under subsection (a) shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.”

Previously, sec. 813 was amended and restated by sec. 149 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 670). Functions vested in the Secretary of State in this section, prior to amendment, were delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

²²⁰ 22 U.S.C. 4054.

²²¹ Sec. 217(a) of Public Law 100-238 (101 Stat. 1775) added language from this point to “Foreign Service and”.

Sec. 261(b)(2) of Public Law 100-238 (101 Stat. 1776) provided the following exception:

“(2) The amendment made by section 217(a) shall not apply with respect to the former spouse of a participant or former participant who is subject to subchapter I of chapter 8 of the Foreign Service Act of 1980 if, on the date of enactment of this title, [January 8, 1988] that former spouse—

“(A) was the spouse of that participant or former participant; or

“(B) is entitled to an annuity under section 814 of the Foreign Service Act of 1980 pursuant to the divorce or annulment of the marriage to that participant or former participant.”

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

For the purposes of this paragraph, the term "creditable service" means service which is creditable under subchapter I or II.²²²

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of the annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this subchapter²⁰⁹ on the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 820(b)(1) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 24²²³ months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this subchapter,²⁰⁹ and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 806(b)(3).

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 308, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 824, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this subchapter²⁰⁹ (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

²²²This sentence was added by sec. 404(b)(1) of Public Law 99-335 (100 Stat. 610).

²²³Sec. 217(b) of Public Law 100-238 (101 Stat. 1775) struck out "12" and inserted in lieu thereof "24".

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 806(h) or any comparable provision of law.

(b)(1) Subject to any election under section 806(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 806(a); or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity. For the purposes of this paragraph, the term 'creditable service' means service which is creditable under subchapter I or II.²²⁴

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund under this subchapter²⁰⁹ to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 806(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 806(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the an-

²²⁴This sentence was added by sec. 404(b)(2) of Public Law 99-335 (100 Stat. 610).

nuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 806(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 820(b)(1) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 806, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 806(a).

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect

a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this subchapter.²⁰⁹

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 826 shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(d)²²⁵ * * * [Repealed—1988]

SEC. 815.²²⁶ LUMP-SUM PAYMENTS.—(a)²²⁷ (1) A participant is entitled to be paid a lump-sum credit if the participant—

(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this chapter and remains in such a position for at least 31 consecutive days;

(B) files an application with the Secretary of State for payment of the lump-sum credit;

(C) is not reemployed in a position in which the participant is subject to this chapter at the time the participant files the application;

(D) will not become eligible to receive an annuity under this subchapter within 31 days after filing the application; and

(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State.

Such regulations may provide for waiver of subparagraph (E) under circumstances described in section 806(b)(1)(D).

(2) Such lump-sum credit shall be paid to the participant and to any former spouse of the participant in accordance with subsection (i).

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 823, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

(c) If all annuity rights under this subchapter²⁰⁹ based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

(d) If a participant or former participant dies and is not survived by an individual eligible for an annuity under this subchapter²⁰⁹ or by such an individual or individuals all of whose annuity rights

²²⁵ Sec. 217(c)(2) of Public Law 100-238 (101 Stat. 1775) repealed subsec. (d).

²²⁶ 22 U.S.C. 4055.

²²⁷ Sec. 218(a) of Public Law 100-238 (101 Stat. 1775) restated subsec. (a).

terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 804(2)) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participants or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

(g) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survivor annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h)²²⁸ Amounts deducted and withheld from basic salary of a participant under section 805 from the beginning of the first pay

²²⁸Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) * * *

period after the participant has completed 35 years of service computed under section 816 (excluding service credit for unused sick leave under section 816(b)), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 805(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse. For the purposes of this subsection, the term "creditable service" means service which is creditable under subchapter I or II.²²⁹

SEC. 816.²³⁰ CREDITABLE SERVICE.—(a)²³¹ (1)²³² Except as otherwise specified by law, all periods of civilian and military and naval

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

²²⁹This sentence was added by sec. 404(c) of Public Law 99-335 (100 Stat. 610).

²³⁰22 U.S.C. 4056.

²³¹Sec. 5 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Sec. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants.* (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act on or before the date of approval of this Order, or who is entitled to an annuity based on a separation from service occurring on or before such date.

"(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

"(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 280 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

"(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which

service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5, United States Code), shall be creditable for purposes of this subchapter.²⁰⁹ Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this chapter under the same conditions.

(2)²³² The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

(A) each period of military or naval service performed before January 1, 1957, and

(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this subchapter²⁰⁹ is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e).

(3)²³² The service of an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of separation on which the entitlement to an annuity under this subchapter²⁰⁹ is based, subject, in the case of military or naval service performed after December 1956, to section 816(j), as deemed to be added by this Order.

(4)²³² The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this subchapter²⁰⁹ is based, subject, in the case of military or naval service performed after December 1976, to section 816(j), as deemed to be added by this Order.

(b) In computing any annuity under this subchapter,²⁰⁹ the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to an annuity in-

the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act) for each such year.

“(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

“(d) For purposes of this section, the term (determination month) means—

“(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

“(2) the first day of the month following the month in which this Order is issued in the case of any individual so entitled to such benefits for such month.

“(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act for calendar months beginning after the date of this Order.

“(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.”

²³²Sec. 4(b) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) inserted the par. designation “(1)” and added a new par. (2), (3), and (4), effective October 17, 1983.

cludes (without regard to the 35-year limitation imposed by section 806(a)) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this subchapter.²⁰⁹ A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for each such period of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 805. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d)²³³ A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 805. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

²³³Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) * * *

"(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contribution have not been made under section 805(d) of the Act unless—

"(1) the participant makes a contribution for such period as provided in such section 805(d);

or

"(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 805 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this subchapter,²⁰⁹ as not separated from the Service under section 815. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(1) of title, 5, United States Code, for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as described in section 8332(1) of title 5, United States Code, of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter²⁰⁹ and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i)(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this subchapter²⁰⁹ relating to former spouses if such service would be creditable—

(A) under subsection (c) (1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this subchapter²⁰⁹ a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2)²³⁴ A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(a) or section 809(e).

(j)²³⁵ (1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this subchapter.²⁰⁹ The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e); or

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant had made a contribution (with interest if any is required) under section 805(e).

SEC. 817.²³⁶ EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.—The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service. Such extra credit

²³⁴Sec. 145(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), restated par. (2). It formerly read as follows:

“(2) A former spouse shall not be considered as married to a participant—

“(A) for periods assumed to be creditable service under section 808(a) or section 809(e),

or

“(B) for any extra period of creditable service provided under section 817 for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.”

²³⁵Sec. 4(c) of Executive Order 12466 (October 17, 1983; 48 F.R. 48443) added subsec. (j), effective October 17, 1983.

²³⁶22 U.S.C. 4057.

may not be used to determine the eligibility of a person to qualify as a former spouse under this subchapter, or to compute the pro rata share under section 804(10). No extra credit for service at unhealthful posts may be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.²³⁷

SEC. 818.²³⁸ ESTIMATE OF APPROPRIATIONS NEEDED.—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding \$5,000 per year for the incidental expenses necessary in administering the provisions of this subchapter,²⁰⁹ including actuarial advice.

SEC. 819.²³⁹ INVESTMENT OF THE FUND.—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

SEC. 820.²⁴⁰ ASSIGNMENT AND ATTACHMENT OF MONEYS.—(a)(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a member of the Service who is entitled to receive benefits under section 609(b)(1) may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

(b)(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 814(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 814 (b) or (c), and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 815 (a) or (b);

²³⁷ Sec. 145(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37; enacted February 16, 1990), added text beginning with "Such extra credit may".

²³⁸ 22 U.S.C. 4058.

²³⁹ 22 U.S.C. 4059.

²⁴⁰ 22 U.S.C. 4060.

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 814(c)(3)); or

(ii) is otherwise inconsistent with the requirements of this subchapter.²⁰⁹

(2) Except with respect to obligations between participants and former spouses, payments under this subchapter²⁰⁹ which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this subchapter²⁰⁹ for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 804(b)(6), or any other provision of this subchapter,²⁰⁹ shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this subchapter.²⁰⁹

(c) None of the moneys mentioned in this subchapter²⁰⁹ shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

SEC. 821.²⁴¹ PAYMENTS FOR FUTURE BENEFITS.—(a) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund under this subchapter,²⁰⁹ including annuity increases other than under section 825;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or

²⁴¹ 22 U.S.C. 4061.

liberalized benefit, extension of benefits, or increase in salary is effective.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 805(a).

SEC. 822.²⁴² UNFUNDED LIABILITY OBLIGATIONS.—(a) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service, less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).²⁴³

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Requests for appropriations to the Fund under section 821(b) shall include reports to the Congress on the sums credited to the Fund under this section.

SEC. 823.²⁴⁴ ANNUITY ADJUSTMENT FOR RECALL SERVICE.—(a) Any annuitant recalled to duty in the Service under section 308(a) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 805. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 825 that became effective during the recall period.

(b) If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 815. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 806 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 806 in lieu of any other benefits under this section. Any annuitant who is recalled under section 308 may upon written application count as recall service any prior service that is creditable under section 816 that was performed after the separation upon which his or her annuity is based.

²⁴² 22 U.S.C. 4062.

²⁴³ Sec. 4(d) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) added the words to this point beginning with “, less an amount determined * * *”.

²⁴⁴ 22 U.S.C. 4063.

(c)²⁴⁵ If an annuitant becomes subject to subchapter II of this chapter by reason of recall service—

(1) subsections (a) and (b) shall not apply to such annuitant; and

(2) section 824 shall apply to the recall service as if such service were reemployment.

SEC. 824.²⁴⁶ REEMPLOYMENT.—(a)(1)²⁴⁷ (A) Except in the case of an annuitant who makes an election under subsection (b) or in the case of a waiver under subsection (g),²⁴⁸ if any former participant, who has retired and is receiving an annuity under this subchapter²⁰⁹ or subchapter II of this chapter, becomes employed in an appointive or elective position in the Government, payment of any annuity under either subchapter to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

(b)(1) A participant who is entitled to an annuity under this subchapter or subchapter II of this chapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

(2) The total annuity payable under this chapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

(3)²⁴⁹ (A) The sum of—

(i) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

(B) The amount referred to in subparagraph (A) is the greater of—

²⁴⁵ Subsection (c) was added by sec. 409 of Public Law 99-335 (100 Stat 612).

²⁴⁶ 22 U.S.C. 4064. This section was comprehensively amended and restated by section 410 of Public Law 99-335 (100 Stat. 613).

²⁴⁷ So in original. There is no par. (2).

²⁴⁸ Sec. 103(1) of Public Law 105-277 (112 Stat. 2681-585) inserted “or in the case of a waiver under subsection (g)” after “subsection (b)”.

²⁴⁹ Sec. 403 of Public Law 99-556 (100 Stat. 3136) substantially amended and restated par. (3).

(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or

(ii) the basic pay the annuitant was entitled to receive under this Act on the date of retirement from the Service.

(C) For purposes of this section, the term "annuity" means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 814 or 820(b).

(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

(c) The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

(d) The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5, United States Code.

(e) When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

(f) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this chapter.²⁵⁰

(g)²⁵¹ The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

(h)²⁵¹ A reemployed annuitant as to whom a waiver under subsection (g) is in effect shall not be considered a participant for purposes of subchapter I or subchapter II, or an employee for purposes of chapter 83 or 84 of title 5, United States Code.

SEC. 825.²⁵² VOLUNTARY CONTRIBUTIONS.—(a)²⁵³ The voluntary contribution account shall be the sum of unrefunded amounts vol-

²⁵⁰ The word "chapter" probably should read "subchapter".

²⁵¹ Sec. 103(2) of Public Law 105-277 (112 Stat. 2681-585) added new subsecs. (g) and (h).

²⁵² 22 U.S.C. 4065.

²⁵³ Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of sec. 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended

untarily contributed prior to the effective date of this Act by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

- (1) returned in a lump sum;
- (2) used to purchase an additional life annuity;
- (3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or
- (4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) The benefits provided by subsection (a) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 815(f).

SEC. 826.²⁵⁴ COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund under this sub-

to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

“(b) * * *

“(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civil service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order.”.

²⁵⁴ 22 U.S.C. 4066.

chapter²⁰⁹ which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1)²⁵⁵ The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

(A) $\frac{1}{12}$ of the applicable percent change computed under subsection (b) of this Section, multiplied by

(B) the number of months (counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity under this subchapter²⁰⁹ payable from the Fund to the survivor of an annuitant, except a child entitled to an annuity under section 806(c) or 809 (c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 806 (c) or (d) or 809 (c) or (d), the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 806(c) shall be increased by the total percentage increases by which correspondence amounts are being increased under section 8340 of title 5, United States Code, on the date the annuity of the child becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be rounded to the next lowest dollar,²⁵⁶ except such installment shall after adjustment reflect an increase of at least \$1.

(f) Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior

²⁵⁵ Sec. 219 of Public Law 100-238 (101 Stat. 1775) restated par. (1).

²⁵⁶ Sec. 2(a) of Executive Order 12446 (October 17, 1983; 38 F.R. 48443; 22 U.S.C. 4067 note) substituted the words "rounded to the next lowest" in lieu of the words "fixed at the nearest". Sec. 2(b) of Executive Order 12446 further stated that this amendment "shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order."

to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

(g)²⁵⁷ (1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay rate payable for class FS-1 under section 403, 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) For the purposes of paragraph (1) of this subsection, "pay" means the rate of salary or basic pay as payable under any provision of law, including any provisions of law limiting the expenditure of appropriated funds.

SEC. 827.²⁵⁸ COMPATIBILITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a)²⁵⁹ In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System.

²⁵⁷ Sec. 6(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) added subsec. (g). Sec. 6(b) of Executive Order 12446 provided the following:

"(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order, but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order."

²⁵⁸ 22 U.S.C. 4067.

²⁵⁹ Sec. 13(h)(2) of Public Law 102-54 (105 Stat. 275) provided that "Any reference to the Veterans' Administration in any regulation prescribed or Executive order issued pursuant to section 827(a) of the Foreign Service Act of 1980 (22 U.S.C. 4067(a)) shall be deemed to be a reference to the Department of Veterans Affairs."

Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

(c)²⁶⁰ The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, and the Foreign Service Pension System provided in subchapter II of this chapter.

SEC. 828.²⁶¹ REMARRIAGE.—Notwithstanding any other provision of this subchapter, any benefit payable under this subchapter to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate or be lost if the individual remarried before 60 years of age, shall not terminate or be lost if the remarriage occurred on or after November 8, 1984, and the individual was 55 years of age or over on the date of the remarriage.

SEC. 829.²⁶² THRIFT SAVINGS FUND PARTICIPATION.—Participants in this System shall be deemed to be employees for the purposes of section 8351 of Title 5. Any reference in such section 8351 or in subchapter III of chapter 84 of such Title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such Title 5 shall be deemed to be references to retirement or separation under part I or II of this subchapter with similar benefits or entitlements with respect to participants under such part I or II of this subchapter, respectively.

SEC. 830.²⁶³ QUALIFIED FORMER WIVES AND HUSBANDS.—(a) Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984, section 827 of this Act shall apply with respect to section 8339(j), section 8341(e), and section 8341(h) of title 5, United States Code, and section 4 (except for subsection (b)) of the Civil Service Retirement Spouse Equity Act of 1984 to the extent that those sections apply to a qualified former wife or husband. For the purposes of this section any reference in the Civil Service Retirement Spouse Equity Act of 1984 to the effective date of that Act shall be deemed to be a reference to the effective date of this section.

(b)(1) Payments pursuant to this section which would otherwise be made to a participant or former participant based upon his service shall be paid (in whole or in part) by the Secretary of State to another person if and to the extent expressly provided for in the terms of any court order or spousal agreement. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made by the Secretary of State under this chapter after the date of receipt by the Secretary of State of written notice of such court order or spousal

²⁶⁰ Subsection (c) was added by sec. 411 of Public Law 99-335 (100 Stat. 614).

²⁶¹ 22 U.S.C. 4068. Section 828 was added by sec. 412 of Public Law 99-335 (100 Stat. 614).

²⁶² 22 U.S.C. 4069. Sec. 829 was added by sec. 404(a) of Public Law 99-556 (100 Stat. 3137).

²⁶³ 22 U.S.C. 4069-1. Sec. 202 of Public Law 100-238 (101 Stat. 1768) added this sec. 830.

agreement and such additional information and documentation as the Secretary of State may prescribe.

(c) For the purposes of this section, the term “qualified former wife or husband” means a former wife or husband of an individual if—

(1) such individual performed at least 18 months of civilian service creditable under this chapter; and

(2) the former wife or husband was married to such individual for at least 9 months but not more than 10 years.

(d) Regulations issued pursuant to section 827 to implement this section shall be submitted to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs of the House of Representatives²⁶⁴ and the Committee on Governmental Affairs and the Committee on Foreign Relations of the Senate. Such regulations shall not take effect until 60 days after the date on which such regulations are submitted to the Congress.

SEC. 830.²⁶⁵ RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse’s pro rata share of 50 percent of such benefits.

(b) A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c)(1) The entitlement of a former spouse to benefits under this section—

²⁶⁴ Sec. 1(b)(2) of Public Law 104-14 (109 Stat. 187) provided that references to the Committee on Post Office and Civil Service of the House of Representatives shall be treated as a reference to the House Committee on Government Reform and Oversight. Sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

²⁶⁵ 22 U.S.C. 4069a. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369) added this sec. 830. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

“SEC. 1331. REFERENCES.

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to 146(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (f) of this section.

- (A) shall commence on the later of—
- (i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or
 - (ii) the first day of the month in which the divorce or annulment involved becomes final; and
- (B) shall terminate on the earlier of—
- (i) the last day of the month before the former spouse dies or remarries before 55 years of age; or
 - (ii) the date the benefits of the participant terminates.
- (2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—
- (A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and
- (B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.
- (3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.
- (4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.
- (B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.
- (d) For the purposes of this section, the term 'benefits' means—
- (1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and
 - (2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.
- (e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.
- (f)²⁶⁶ Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

²⁶⁶Sec. 146(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (f).

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

SEC. 831.²⁶⁷ RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c)(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date of the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete

²⁶⁷ 22 U.S.C. 4069a-1. Enacted by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

(d) For the purpose of this section, the term “benefits” means—

(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

SEC. 831.²⁶⁸ SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant’s or former participant’s annuity, as computed under this chapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant’s or former participant’s annuity referred to in subsection (a) less the amount of such election.

(c) A former spouse shall not be entitled to a survivor annuity under this section if—

²⁶⁸ 22 U.S.C. 4069b. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369), added sec. 831. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

“SEC. 1331. REFERENCES.

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to 146(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (g) of this section.

- (1) the former spouse remarries before age 55; or
 - (2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.
- (d)(1) The entitlement of a former spouse to a survivor annuity under this section—
- (A) shall commence—
 - (i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and
 - (ii) in the case of any other former spouse, beginning on the later of—
 - (I) the date that the participant or former participant to whom the former spouse was married dies; or
 - (II) the effective date of this section; and
 - (B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.
- (2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.
- (B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.
- (e) The Secretary shall—
- (1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and
 - (2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.
- (f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.
- (g)²⁶⁹ Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—
- (1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing

²⁶⁹Sec. 146(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (g).

agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

SEC. 832.²⁷⁰ SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval dur-

²⁷⁰ 22 U.S.C. 4069b-1. Enacted by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

ing which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) The Secretary shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

SEC. 832.²⁷¹ HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.—

(a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

²⁷¹ 22 U.S.C. 4069c. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369) added sec. 832. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

“SEC. 1331. REFERENCES.

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to 146(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (f) of this section.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

(f)²⁷² Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

SEC. 833.²⁷³ HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

²⁷² Sec. 146(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (f).

²⁷³ 22 U.S.C. 4069c-1. Enacted by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM²⁷⁴

SEC. 851.^{274, 275} ESTABLISHMENT.—(a) There is hereby established a Foreign Service Pension System.

(b) Except as otherwise specifically provided in this subchapter or any other provision of law, the provisions of chapter 84 of title 5, United States Code, shall apply to all participants in the Foreign Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required.

²⁷⁴ Subchapter II and the sections contained therein were added by sec. 415 of Public Law 99-335 (100 Stat. 615).

²⁷⁵ 22 U.S.C. 4071.

SEC. 852.^{274, 276} DEFINITIONS.—As used in this subchapter, unless otherwise specified—

(1) the term “court order” has the same meaning given in section 804(4);

(2) the term “Fund” means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 802;

(3)²⁷⁷ the term “lump-sum credit” means the unrefunded amount consisting of—

(A) retirement deductions made from the basis pay of a participant under section 856 of this chapter (or under section 204 of the Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983);

(B) amounts deposited by a participant under section 854 to obtain credit under this System for prior civilian or military service; and

(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury (compounded annually); but does not include interest—

(i) if the service covered thereby aggregates 1 year or less; or

(ii) for a fractional part of a month in the total service;

(4) the term “normal cost” means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

(5) the term “participant” means a person who participates in the Foreign Service Pension System;

(6) the term “pro rata share” in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this chapter is of (B) the total number of years of such service, disregarding extra credit under section 817;

(7) the term “supplemental liability” means the estimated excess of—

(A) the actuarial present value of all future benefits payable from the Fund under this subchapter based on the service of participants or former participants, over

(B) the sum of—

(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of participants pur-

²⁷⁶ 22 U.S.C. 4071a.

²⁷⁷ Sec. 241 of the Federal Employees’ Retirement System, Technical Corrections (Public Law 100-238; 101 Stat. 1776) redesignated par. (3), (4), (5), (6), and (7), and par. (4), (5), (6), (7), and (8), respectively, and added a new par. (3).

suant to section 856 and (II) contributions for past civilian and military service;

(ii) the actuarial present value of future contributions to be made pursuant to section 857;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

(I) to the System, or

(II) to the contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles;

(8) the term "System" means the Foreign Service Pension System; and

(9)²⁷⁸ the term "special agent" has the same meaning given in section 804(15).

SEC. 853.^{274, 279} PARTICIPANTS.—(a) Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986,²⁸⁰ who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 803 shall instead be participants in the Foreign Service Pension System.

(b) Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act.

(c) Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under subchapter I, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)²⁸¹ (determined without regard to any deposit or redeposit requirement under any such subchapter or title, any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or

²⁷⁸Sec. 2(a)(2) of Public Law 105-382 (112 Stat. 3406) struck out "and" at the end of para. (7); replaced the period at the end of para. (8) with "; and"; and added a new para. (9).

²⁷⁹22 U.S.C. 4071b.

²⁸⁰Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

²⁸¹Sec. 204(b)(1) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees", and inserted in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)."

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

title) are not participants in the System, except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this subchapter (under regulations issued by the Secretary of State pursuant to section 860).

(d) The Secretary may exclude from the operation of this subchapter any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 306.

SEC. 854.^{274, 284} CREDITABLE SERVICE.—(a) For purposes of this subchapter, creditable service of a participant includes—

(1) service as a participant after December 31, 1986;

(2) service with respect to which deductions and withholdings under section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made; and

(3) except as provided in subsection (b), any civilian service performed before January 1, 1989 (other than service under paragraph (1) or (2)), which, but for the amendment made by section 414 of the Federal Employees' Retirement System Act of 1986, would be creditable under subchapter I (determined without regard to any deposit or redeposit requirement under such subchapter, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)²⁸³ any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title).

(b)(1) A participant who has received a refund of retirement deductions under subchapter I with respect to any service described in subsection (a)(3) may not be allowed credit for such service under this subchapter unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(2) A participant may not be allowed credit under this subchapter for any service described in subsection (a)(3) for which retirement deductions under subchapter I have not been made, unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(3) Interest under paragraph (1) or (2) shall be computed in accordance with section 805(d) and regulations issued by the Secretary of State.

²⁸² 22 U.S.C. 4071c.

²⁸³ Sec. 204(b)(2)(A) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserted in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)."

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

(c)²⁸⁴ (1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

(C) a full-time volunteer for a period of service of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2000,²⁸⁵ shall be as follows:

3.25

January 1, 1999, to December 31, 1999.

3.4

January 1, 2000, to December 31, 2000.

(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State.

(d) Credit shall be given under this System to a participant for a period of prior service under the Federal Employees' Retirement System (described in chapter 84 of title 5, United States Code) or under title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)²⁸⁶ if the participant waives credit under the other retirement system and makes a payment to the Fund equal to the amount which was deducted and withheld from the individual's basic pay under the other retirement system²⁸⁷ during the prior creditable service under the other retirement system together with interest on such amount computed in accordance with regulations issued by the Secretary of State.

(e)²⁸⁸ A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing Mem-

²⁸⁴ Sec. 7001(e)(1)(B) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) amended and restated subsec. (c).

²⁸⁵ Sec. 505(e)(2) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394 enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-54), struck out "December 31, 2002" and inserted in lieu thereof "December 31, 2000". In the matter after the colon, that section struck out "3.5..... January 1, 2001, to December 31, 2002" after "December 31, 2000".

²⁸⁶ Sec. 204(b)(2)(B) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserted in lieu thereof "title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)".

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

²⁸⁷ Sec. 405(a) of Public Law 99-556 (100 Stat. 3137) struck out "which would have been deducted from pay under section 856(a) had the individual been a participant" and inserted in lieu thereof "which was deducted and withheld from the individual's basic pay under the other retirement system".

²⁸⁸ Sec. 405(b) of Public Law 99-556 (100 Stat. 3137) added subsec. (e).

ber or office in the Congress shall make a contribution²⁸⁹ (from the appropriation or fund which is used for payment of the salary of the participant) determined under section 857(a)²⁹⁰ to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

SEC. 855.^{275, 291} ENTITLEMENT TO ANNUITY.—(a)(1) Any participant may be retired under the conditions specified in section 811 and shall be retired under the conditions specified in sections 812 and 813 and receive benefits under this subchapter.

(2) For the purposes of this subsection—

(A) the term “participant”, as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

(B) the term “System”, as used in those sections, means the Foreign Service Pension System.

(b)(1) Any participant who retires voluntarily or mandatorily under section 607, 608, 611,²⁹² 811, 812, or 813 under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System or for participants in the Foreign Service Pension System,²⁹³ and who has completed at least 5 years as a member of the Foreign Service,²⁹⁴ shall be entitled to an immediate annuity computed under paragraph (2).

(2) An annuity under paragraph (1) shall be computed—

(A)²⁹⁵ in accordance with section 8416(d)(1) of title 5, United States Code, for all service while a participant in this System and for prior service creditable under this subchapter not otherwise counted as—

(i) a member of the Service,

(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))²⁹⁶ or

²⁸⁹Sec. 242(1) of Public Law 100-238 (101 Stat. 1776) struck out “matching” here.

²⁹⁰Sec. 242(2) of Public Law 100-238 (101 Stat. 1776) inserted “determined under section 857(a)”.

²⁹¹22 U.S.C. 4071d.

²⁹²Sec. 2(d)(3)(B) of Public Law 105-382 (112 Stat. 3408) inserted the reference to section 611. Sec. 2312(b)(1)(A) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) made the same amendment. The amendment made by Public Law 105-277 is effective, with respect to any actions taken under section 611, on or after January 1, 1996, pursuant to sec. 2312(c)(3) of that Act.

²⁹³Sec. 2312(b)(1)(B) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) inserted “or for participants in the Foreign Service Pension System.”

²⁹⁴Sec. 406(a) of Public Law 99-556 (100 Stat. 3138) struck out “of service subject to this chapter” at this point and inserted “as a member of the Foreign Service”. Sec. 2312(b)(1)(C) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) inserted a comma after “Service”.

²⁹⁵Sec. 406(b) of Public Law 99-556 (100 Stat. 3138) substantially amended and restated all subpar. under sec. 855(b).

²⁹⁶Sec. 204(b)(3) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out “under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act” and inserted in lieu thereof “under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))”.

(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, United States Code, or in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code; and

(B) at the rate stated in section 8415(a) of title 5, United States Code, for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).

(3)²⁹⁷ any participant who is involuntarily retired or separated under section 607, 608, 611, 610, or 611²⁹⁸ and who would if a participant under subchapter I, become eligible for a refund of contributions or a deferred annuity under subchapter I, shall, in lieu thereof, receive benefits for an involuntary separation under this subchapter.

(4)²⁹⁷ A disability annuity under this subchapter required to be redetermined under section 8452(b) of title 5, United States Code, or computed under section 8452 (c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452 (c) and(d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 811 of this Act.

(5)²⁹⁷ A former participant entitled to a deferred annuity under section 8413(b) of title 5, United States Code, shall not be subject to section 8415(f)(1) of such title 5 if the former participant has 20 years of service creditable under this subchapter and is at least 50 years of age as of the date on which the annuity is to commence.

(6)²⁹⁷ (A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this subchapter rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A)²⁹⁹ shall be based on an "assumed FSRDS annuity" rather than an "assumed CSRS annuity" as stated in such section. For the purpose of this subparagraph, the term "assumed FSRDS annuity" means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

²⁹⁷ Sec. 406(c) of Public Law 99-556 (100 Stat. 3138) added par. (3), (4), (5), and (6).

²⁹⁸ Sec. 2(d)(3)(B) of Public Law 105-382 (112 Stat. 3408) inserted the reference to section 611. Sec. 2312(b)(2) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827) struck out "or 610" and inserted in lieu thereof "610, or 611", resulting in the redundant reference to section 611. The amendment made by Public Law 105-277 is effective, with respect to any actions taken under section 611, on or after January 1, 1996, pursuant to sec. 2312(c)(3) of that Act.

²⁹⁹ Refers to title 5 U.S.C. 8442(f)(2)(A).

(c) A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5, United States Code, as if the participant were a law enforcement officer retired under section 8412(d) of such title.

(d) Any participant who is separated for cause under section 610 shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

SEC. 856.^{275, 300} DEDUCTIONS AND WITHHOLDINGS FROM PAY.—(a)³⁰¹ The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

(2) The applicable percentage under this subsection shall be as follows:³⁰²

7.5

Before January 1, 1999.

7.75

January 1, 1999, to December 31, 1999.

7.9

January 1, 2000, to December 31, 2000.

(b) Each participant is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of a participant, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter based on the service of the participant.

(c) Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

(d) Under such regulations as the Secretary of State may issue, amounts deducted under subsection (a) shall be entered on individual retirement records.

SEC. 857.^{275, 303, 304} GOVERNMENT CONTRIBUTIONS.—(a) Each agency employing any participant shall contribute to the Fund the

³⁰⁰ 22 U.S.C. 4071e.

³⁰¹ Sec. 7001(e)(1)(A) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) amended and restated subsec. (a).

³⁰² Sec. 505(e)(1) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394 enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-53), struck out “8..... January 1, 2001, to December 31, 2002” and “7.5..... After December 31, 2002” from the chart in para. (2).

³⁰³ 22 U.S.C. 4071f.

³⁰⁴ Sec. 7001(e)(2) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 662) provided the following:

“(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.”

See related amendments at secs. 856(a) and 854(c) of this Act.

amount computed in a manner similar to that used under section 8423(a) of title 5, United States Code, pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

SEC. 858.^{275, 305} COST-OF-LIVING ADJUSTMENTS.—Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5, United States Code, in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

SEC. 859.^{275, 306} GENERAL AND ADMINISTRATIVE PROVISIONS.—(a) The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapter III and VI of chapter 84 of title 5, United States Code. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

(b) Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 title 5, United States Code, or the Director of such Office, would be appealable to the Merit Systems Protection Board, except that determinations of disability for participants shall be based upon the standards in section 808 (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

SEC. 860.^{275, 307} TRANSITION PROVISIONS.—The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5, United

³⁰⁵ 22 U.S.C. 4071g.

³⁰⁶ 22 U.S.C. 4071h.

³⁰⁷ 22 U.S.C. 4071i.

States Code (the Civil Service Retirement System), to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), the Social Security Act, and the Internal Revenue Code of 1986³⁰⁸ shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

SEC. 861.^{275, 309} FORMER SPOUSES.—(a)(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this subchapter, a former spouse of a participant or former participant is entitled, during the period described in subchapter (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to such participant under this subchapter if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this chapter; or

(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of the Internal Revenue Code of 1986,³¹⁰ payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this subchapter, and

(ii) any reduction in the annuity of the participant to provide survivor benefits under this subchapter.

(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her

³⁰⁸Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

³⁰⁹22 U.S.C. 4071j.

³¹⁰Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

creditable service, for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this subchapter which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this subchapter.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, United States Code, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this subchapter, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

(b)(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this subchapter to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(3)³¹¹ A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(c) A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5, United States Code, or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

(d) If a member becomes a participant under this subchapter after qualifying for benefits under subchapter I and, at the time of

³¹¹ Sec. 407 of Public Law 99-556 (100 Stat. 3139) added par. (3).

transfer, has a former spouse entitled to benefits under subchapter I which are determined under section 814 or 815 (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 814 or 815 and the service of the member as a participant under this subchapter is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

(e) If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, United States Code, to a former spouse, such survivor annuity shall be paid under the terms of this subchapter as if the survivor annuity had been ordered by a court.

SEC. 862.^{275, 312} SPOUSAL AGREEMENTS.—A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this Act and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this subchapter to a spouse or former spouse.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

SEC. 901.³¹³ TRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

- (1) proceeding to and returning from assigned posts of duty;
- (2) authorized or required home leave;
- (3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;
- (4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;
- (5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

³¹² 22 U.S.C. 4071k.

³¹³ 22 U.S.C. 4081.

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour unbroken by home leave and of 2 round trips during any continuous 3-year tour unbroken by home leave;

(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

(8) trips by a member of the Service for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9)³¹⁴ round-trip travel to or from an employee's post of assignment for purposes of family visitation in emergency situations involving personal hardship, except that payment for travel by family members to an employee's post of assignment may be authorized under this paragraph only where the family of the member is prevented by official order from residing at such post;

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status or, if

³¹⁴Sec. 148 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 38), restated par. (9). It formerly read as follows:

"(9) round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;"

death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant;³¹⁵

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;³¹⁶ and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;³¹⁷

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but

³¹⁵Sec. 146 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 669), inserted text to this point beginning with “or, if death occurs * * *”.

³¹⁶Sec. 145(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), inserted text to this point beginning with “, except that in extraordinary * * *”.

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

³¹⁷Sec. 145(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), inserted text to this point beginning with “, except that in extraordinary * * *”.

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

transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the members and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5, United States Code (notwithstanding section 3375(a) of such title, if an agreement similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5, United States Code; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the port of entry in the contiguous 48 States which is nearest to that post.

SEC. 902.³¹⁸ LOAN OF HOUSEHOLD EFFECTS.—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.

SEC. 903.³¹⁹ REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order a member of the Service (other than a member employed under section 311)³²⁰ who is a citizen of the United States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 18 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service (other than a member employed under section 311)³²⁰ who is a citizen of the

³¹⁸ 22 U.S.C. 4082.

³¹⁹ 22 U.S.C. 4083.

³²⁰ Sec. 180(a)(8) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “(other than a member employed under section 311)” after “member of the Service” at each point it appears in sec. 903(a).

United States as soon as possible after completion by that member of 3 years of continuous service abroad.

(b) Leave ordered under this section may be taken in the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

(c) While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

SEC. 904.³²¹ HEALTH CARE.—(a) The Secretary of State shall establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees.

(b) Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations, and other preventive and remedial care and services as necessary, for members of the Service and employees of the Department who are citizens of the United States and for members of their families, and (3) examinations necessary in order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or Foreign Service Pension System³²² or to provide survivor benefits under chapter 8.

(c) The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition which requires treatment while assigned to a post abroad located overseas pursuant to Government authorization, the Secretary may pay the cost of such treatment.

(e) Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

³²¹ 22 U.S.C. 4084. Sec. 122 of Public Law 99-93 (99 Stat. 405) amended subsection (a), by striking out "may" and inserting in lieu thereof "shall"; and subsection (b), by inserting " , and other preventive and remedial care and services as necessary," after "inoculations or vaccinations"; and by amending subsection (d) which previously read as follows:

"(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad."

³²² Sec. 243 of Public Law 100-238 (101 Stat. 1776) inserted "Foreign Service Pension System" here.

(f) The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

SEC. 905.³²³ REPRESENTATION EXPENSES.—Notwithstanding section 5536 of title 5, United States Code, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

SEC. 906.³²⁴ ENTITLEMENT TO VOTE IN A STATE IN A FEDERAL ELECTION.—(a) Except as provided in subsection (b) and in such manner as shall be otherwise authorized by a State or other jurisdiction within the territory of the United States, a member of the Service residing outside the United States shall, in addition to any entitlement to vote in a State in a Federal election under section 3 of the Overseas Citizens Voting Rights Act (42 U.S.C. 1973dd-1), be entitled to vote in a Federal election in the State in which such member was last domiciled immediately before entering the Service if such member—

- (1) makes an election of that State;
- (2) notifies that State of such election and notifies any other States in which he or she is entitled to vote of such election; and
- (3) otherwise meets the requirements of such Act.

(b) The provisions of subsection (a) shall apply only to an individual who becomes a member of the Service on or after the date of enactment of this section and shall not apply to an individual who registers to vote in a State in which he is entitled to vote under section 3 of Overseas Citizens Voting Rights Act.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

SEC. 1001.³²⁵ LABOR-MANAGEMENT POLICY.—The Congress finds that—

- (1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—
 - (A) safeguards the public interest,
 - (B) contributes to the effective conduct of public business, and

³²³ 22 U.S.C. 4085.

³²⁴ 22 U.S.C. 4086. Sec. 129(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) added sec. 906.

³²⁵ 22 U.S.C. 4101.

- (C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;
- (2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and
- (3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

SEC. 1002.³²⁶ DEFINITIONS.—As used in this chapter, the term—

(1) “Authority” means the Federal Labor Relations Authority, described in section 7104(a) of title 5, United States Code;

(2) “Board” means the Foreign Service Labor Relations Board, established by section 1006(a);

(3) “collective bargaining” means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) “collective bargaining agreement” means an agreement entered into as a result of collective bargaining under the provisions of this chapter;

(5) “conditions of employment” means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5, United States Code;

(B) relating to the designation or classification of any position under section 501;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

³²⁶ 22 U.S.C. 4102.

(6) “confidential employee” means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(7) “dues” means dues, fees, and assessments;

(8) “employee” means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, a member of the Service who is a United States citizen (other than a family member) employed under section 311,³²⁷ or any individual who participates in a strike in violation of section 7311 of title 5, United States Code; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1015 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) “exclusive representative” means any labor organization which is certified as the exclusive representative of employees under section 1011;

(10) “General Counsel” means the General Counsel of the Authority;

(11) “labor organization” means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 1101) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) “management official” means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

³²⁷Sec. 180(a)(9) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “a member of the Service who is a United States citizen (other than a family member) employed under section 311,” after “a consular agent.”

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 209; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(13) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 1010(a); and

(14) "person" means an individual, a labor organization, or an agency to which this chapter applies.

SEC. 1003.³²⁸ APPLICATION.—(a) This chapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development,³²⁹ the Department of Agriculture, and the Department of Commerce.

(b) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) The President may by Executive order suspend any provision of this chapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

SEC. 1004.³³⁰ EMPLOYEE RIGHTS.—(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

SEC. 1005.³³¹ MANAGEMENT RIGHTS.—(a) Subject to subsection (b), nothing in this chapter shall affect the authority of any man-

³²⁸ 22 U.S.C. 4103.

³²⁹ Sec. 1335(k)(3) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Sec. 1422(b)(4)(C) of that Act (112 Stat. 2681-793) struck out "United States International Development Cooperation Agency" and inserted in lieu thereof "Agency for International Development".

³³⁰ 22 U.S.C. 4104.

³³¹ 22 U.S.C. 4105.

agement official of the Department, in accordance with applicable law—

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any member in accordance with regulations prescribed under section 605(b);

(3)³³² to conduct reductions in force, and to prescribe regulations for the separation of employees pursuant to such reductions in force conducted under section 611;

(4)³³² to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(5)³³² to fill positions from any appropriate source;

(6)³³² to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies; and

(7)³³² to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

SEC. 1006.³³³ FOREIGN SERVICE LABOR RELATIONS BOARD.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining

³³² Sec. 181(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), as amended, redesignated paras. (3) through (6) as paras. (4) through (7), respectively; and added a new para. (3). Sec. 181(c) of that Act, furthermore, provided the following:

“(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency [sic] shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.”

³³³ 22 U.S.C. 4106.

2 members from among individuals the Chairperson considers knowledgeable in labor-management relations and the conduct of foreign affairs.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day they are performing their duties (including traveltime).

(e) The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

SEC. 1007.³³⁴ FUNCTIONS OF THE BOARD.—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 1014; and

(5) take any action considered necessary to administer effectively the provisions of this chapter.

(b) Decisions of the Board under this chapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, United States Code, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this chapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5, United States Code.

(c) In order to carry out its functions under this chapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this chapter; and

(2) the Board may—

³³⁴ 22 U.S.C. 4107.

(A) adopt other regulations concerning its functions under this chapter;

(B) conduct appropriate inquiries wherever persons subject to this chapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas;

(E) require the Department or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action the Board considers appropriate to carry out this chapter; and

(F) consistent with the provisions of this chapter, exercise the functions the Authority has under chapter 71 of title 5, United States Code, to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

SEC. 1008.³³⁵ FUNCTIONS OF THE GENERAL COUNSEL.—The General Counsel may—

(1) investigate alleged unfair labor practices under this chapter,

(2) file and prosecute complaints under this chapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

SEC. 1009.³³⁶ JUDICIAL REVIEW AND ENFORCEMENT.—(a) Except as provided in section 1014(d), any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this chapter and for any appropriate temporary relief or restraining order.

(c) Subsection (c) of section 7123 of title 5, United States Code, shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5, United States Code.

(d) The Board may, upon issuance of a complaint as provided in section 1016 charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

³³⁵ 22 U.S.C. 4108.

³³⁶ 22 U.S.C. 4109.

SEC. 1010.³³⁷ FOREIGN SERVICE IMPASSE DISPUTES PANEL.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

- (1) 2 members of the Service (other than a management official, a confidential employee or a labor organization official);
- (2) one individual employed by the Department of Labor;
- (3) one member of the Federal Service Impasses Panel; and
- (4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members referred to in subsection (a) (3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, except that the member who is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of title 5, United States Code. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5, United States Code.

(c)(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

- (A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or
- (B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

- (A) hold hearings;
- (B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas as provided in section 7132 of title 5, United States Code; and
- (C) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

SEC. 1011.³³⁸ EXCLUSIVE RECOGNITION.—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret bal-

³³⁷ 22 U.S.C. 4110.

³³⁸ 22 U.S.C. 4111.

lot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved; may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and

representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influences or influence opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

SEC. 1012.³³⁹ EMPLOYEES REPRESENTED.—The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

SEC. 1013.³⁴⁰ REPRESENTATION RIGHTS AND DUTIES.—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1012. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 1101) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may

³³⁹ 22 U.S.C. 4112.

³⁴⁰ 22 U.S.C. 4113.

determine appropriate techniques, consistent with the provisions of section 1010, to assist in any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

- (1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under chapter 11; or
- (2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

- (1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;
- (2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;
- (3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;
- (4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—

(A) which is normally maintained by the Department in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;

- (5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(f)(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters,

and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

SEC. 1014.³⁴¹ RESOLUTION OF IMPLEMENTATION DISPUTES.—(a) Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

- (1) be fair and simple,
- (2) provide for expeditious processing, and
- (3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient—

- (1) because it is contrary to any law, rule, or regulation; or
- (2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

SEC. 1015.³⁴² UNFAIR LABOR PRACTICES.—(a) It shall be an unfair labor practice for the Department—

- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
- (2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;
- (3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;
- (4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this chapter;
- (5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

³⁴¹ 22 U.S.C. 4114.

³⁴² 22 U.S.C. 4115.

- (6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;
 - (7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5, United States Code) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or
 - (8) to fail or refuse otherwise to comply with any provision of this chapter.
- (b) It shall be an unfair labor practice for a labor organization—
- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
 - (2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this chapter;
 - (3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;
 - (4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
 - (5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;
 - (6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;
 - (7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or
 - (B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;
 - (8) to deny membership to any employee in the unit represented by the labor organization except—
 - (A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or
 - (B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or
 - (9) to fail or refuse otherwise to comply with any provision of this chapter.
- (c) The expression of any personal view, argument, or opinion, or the making of any statement, which—
- (1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;
 - (2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation, if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

- (A) constitute an unfair labor practice under this chapter, or
- (B) constitute grounds for the setting aside of any election conducted under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1109(a)(2),³⁴³ an employee has an option of using the grievance procedure under chapter 11 or an appeals procedure, issues which can be raised under section 1014 or chapter 11 may, in the discretion of the aggrieved party, be raised either under section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 1014 or chapter 11.

SEC. 1016.³⁴⁴ PREVENTION OF UNFAIR LABOR PRACTICES.—(a) If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(b) Any complaint under subsection (a) shall contain a notice—

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d)(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

³⁴³ Sec. 153(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), struck out "section 1109(b)" and inserted in lieu thereof "section 1109(a)(2)".

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

³⁴⁴ 22 U.S.C. 4116.

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

(g) If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5, United States Code; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5, United States Code) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

SEC. 1017.³⁴⁵ STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS.—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor or

³⁴⁵ 22 U.S.C. 4117.

ganization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e)³⁴⁶ (1) Notwithstanding any other provision of this chapter—

(A) participation in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purposes is prohibited under this chapter—

(i) on the part of any management official or confidential employee;

(ii) on the part of any individual who has served as a management official or confidential employee during the preceding two years; or

(iii) on the part of any other employee if the participation or activity would result in a conflict of interest or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such employee; and

(B) service as a management official or confidential employee is prohibited on the part of any individual having participated in the management of a labor organization for purposes of collective bargaining or having acted as a representative of a labor organization during the preceding two years.

(2)³⁴⁷ For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term “management official” does not include—

(A) any chief of mission;

(B) any principal officer or deputy principal officer;

(C) any administrative or personnel officer abroad; or

(D) any individual described in section 1002(12) (B), (C), or (D) who is not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department.

(f) If the Board finds that any labor organization has willfully and intentionally violated section 1015(b)(7) by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

SEC. 1018.³⁴⁸ ADMINISTRATIVE PROVISIONS.—(a) If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that individual amounts for the payment of regular and periodic dues of the

³⁴⁶ Sec. 171 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 411), amended and restated subsec. (e). It formerly read as follows:

“(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee.”

³⁴⁷ Sec. 2315 of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-828) amended and restated para. (2). It formerly read as follows: “(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term ‘management official’ shall not include chiefs of mission, principal officers and their deputies, and administrative and personnel officers abroad.”

³⁴⁸ 22 U.S.C. 4118.

exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

- (1) the labor organization ceases to be the exclusive representative;
- (2) the individual ceases to receive a salary from the Department as a member of the Service; or
- (3) the individual is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1011(b)(1)(A) alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

CHAPTER 11—GRIEVANCES

SEC. 1101.³⁴⁹ DEFINITION OF GRIEVANCE.—(a)(1) Except as provided in subsection (b), for purposes of this chapter, the term “grievance” means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States (other than a United States citizen employed under section 311 who is not a family member)³⁵⁰ of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this chapter;³⁵¹

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations; and³⁵¹

(H)³⁵¹ any discrimination prohibited by—

(i) section 717 of the Civil Rights Act of 1964,

(ii) section 6(d) of the Fair Labor Standards Act of 1938,

(iii) section 501 of the Rehabilitation Act of 1973,

(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967, or

(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (iv).

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representa-

³⁴⁹ 22 U.S.C. 4131.

³⁵⁰ Sec. 180(a)(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “(other than a United States citizen employed under section 311 who is not a family member)” after “citizen of the United States”.

³⁵¹ Sec. 153(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), struck out “and” from subpar. (F); replaced the period at the end of subpar. (G) with “; and”; and added a new subpar. (H).

Sec. 153(f) of that Act further provided the following:

“(f) APPLICABILITY.—The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

tive under chapter 10 (hereinafter in this chapter referred to as the “exclusive representative”).

(b) For purposes of this chapter, the term “grievance” does not include—

(1) an individual assignment of a member under chapter 5, other than an assignment alleged to be contrary to law or regulation;

(2) the judgment of a selection board established under section 602, a tenure board established under section 306(b), or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a limited appointment under section 612,³⁵² or the denial of a limited career extension or of a renewal of a limited career extension under section 607(b); or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(a)(2).³⁵³

Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) from such term.³⁵³

(c) This chapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development,³⁵⁴ the Department of Agriculture, and the Department of Commerce.

SEC. 1102.³⁵⁵ GRIEVANCES CONCERNING FORMER MEMBERS.—Within the time limitations of section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this chapter only with respect to allegations described in section 1101(a)(1)(G).

SEC. 1103.³⁵⁶ FREEDOM OF ACTION.—(a) Any individual filing a grievance under this chapter (hereinafter in this chapter referred to as the “grievant”), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

(b)(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this chapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not rep-

³⁵² Sec. 181(a)(4)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), struck “611” and inserted in lieu thereof “612”.

³⁵³ Sec. 153(a)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), struck out “section 1109(b)” and inserted in lieu thereof “section 1109(a)(2)”. Subpar. (B) of that section further added the closing sentence to par. 4.

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”.

³⁵⁴ Sec. 1335(k)(4) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(D) of that Act (112 Stat. 2681-793) struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “Agency for International Development”.

³⁵⁵ 22 U.S.C. 4132.

³⁵⁶ 22 U.S.C. 4133.

resented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this chapter.

(c) Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this chapter.

(d)(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant,

or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance. Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline.³⁵⁷

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

SEC. 1104.³⁵⁸ TIME LIMITATIONS.—(a) A grievance is forever barred under this chapter³⁵⁹ unless it is filed with the Department not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.³⁶⁰ There shall be excluded from the computation of any

³⁵⁷Sec. 329 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added "Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline."

³⁵⁸22 U.S.C. 4134.

³⁵⁹Sec. 153(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), inserted "under this chapter" before "unless".

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

³⁶⁰Sec. 330(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law

such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

(c)³⁶¹ (1) In applying subsection (a) with respect to an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), the reference to “2 years”³⁶² shall be deemed to read “180 days”, subject to paragraph (2).

(2) If the occurrence or occurrences giving rise to the grievance are alleged to have occurred while the grievant was assigned to a post abroad, the 180-day period provided for under paragraph (1) shall not commence until the earlier of—

(A) the date as of which the grievant is no longer assigned to such post; or

(B) the expiration of the 18-month period beginning on the date of the occurrence giving rise to the grievance or the last such occurrence, as the case may be.

SEC. 1105.³⁶³ FOREIGN SERVICE GRIEVANCE BOARD.—(a) There is established the Foreign Service Grievance Board (hereinafter in this chapter referred to as the “Board”). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order

106-113; 113 Stat. 1536), effective 180 days after enactment, struck out “within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative.” and inserted in lieu thereof “not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant’s rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.”

³⁶¹Sec. 153(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added subsec. (c).

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

³⁶²Sec. 329(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “3 years” and inserted in lieu thereof “2 years”, effective 180 days after enactment.

³⁶³22 U.S.C. 4135.

determined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(d) The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member).

(e) The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality.

(f)³⁶⁴ (1) Not later than March 1 of each year, the Chairman of the Foreign Service Grievance Board shall prepare a report summarizing the activities of the Board during the previous calendar year. The report shall include—

(A) the number of cases filed;

(B) the types of cases filed;

(C) the number of cases on which a final decision was reached, as well as data on the outcome of cases, whether affirmed, reversed, settled, withdrawn, or dismissed;

(D) the number of oral hearings conducted and the length of each such hearing;

(E) the number of instances in which interim relief was granted by the Board; and

(F) data on the average time for consideration of a grievance, from the time of filing to a decision of the Board.

(2) The report required under paragraph (1) shall be submitted to the Director General of the Foreign Service and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

³⁶⁴Sec. 331 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added subsec. (f).

SEC. 1106.³⁶⁵ BOARD PROCEDURES.—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or the retirement of a grievant from the Service under section 607 or 608, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5, United States Code.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be references to a panel or member of the Board where appro-

³⁶⁵ 22 U.S.C. 4136.

priate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant.³⁶⁶ Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned. Notwithstanding the first sentence of this paragraph, the Board's authority to suspend such action shall not extend to instances where the Secretary, or his designee, has exercised his authority under subsection (a)(3) of section 610³⁶⁷ or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 611.³⁶⁸

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

SEC. 1107.³⁶⁹ BOARD DECISIONS.—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the

³⁶⁶Sec. 177(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 414), struck out "until the Board has ruled upon the grievance.", and inserted in lieu thereof "until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant."

³⁶⁷Sec. 143(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out "determined that there is reasonable cause to believe that a grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the grievant without pay pending a final resolution of the underlying matter.", and inserted in lieu thereof "exercised his authority under subsection (a)(3) of section 610.". This last sentence had originally been added by sec. 586(a) of the Foreign Relations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1252).

³⁶⁸Sec. 181(a)(4)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), inserted "or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 611" at the end of para. (8).

³⁶⁹22 U.S.C. 4137.

Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5, United States Code;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5, United States Code; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative (if any).

(c) Except as provided in subsection (d), decisions of the Board under this chapter shall be final, subject only to judicial review as provided in section 1110.

(d)(1)³⁷⁰ If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary, and any person involved in the proceedings of the Board. The Secretary shall, however, have access to the entire record of the proceedings of the Board.

³⁷⁰Sec. 181(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1363) inserted paragraph designation (1) after (d), and added new paragraphs (2) and (3). Sec. 181(b) added the word "tenure" in the first sentence. Sec. 181(e) of the same Act provided that these amendments not apply with respect to any grievance in which the Board has issued a final decision pursuant to this section before their enactment.

(2)³⁷⁰ A recommendation under paragraph (1) shall, for purposes of section 1110 of this Act, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

(3)³⁷⁰ (A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

(i) submit a copy of such decision to the Board; and

(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 1110 of this Act, and shall be implemented by the Secretary.

(e)³⁷¹ (1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

(C) A supervisor who is the subject of records disclosed to the committee pursuant to this subsection shall have the right to review such record and provide comments to the Committee concerning such record. Such comments shall be treated in a confidential manner.

³⁷¹ Subsec. (e) was added by sec. 182 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1364).

(f)³⁷² The Board shall, with respect to any grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), apply the substantive law that would be applied by the Equal Employment Opportunity Commission if a charge or claim alleging discrimination under such law, rule, regulation, or policy directive had been filed with the commission.

SEC. 1108.³⁷³ ACCESS TO RECORDS.—(a) If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department, the grievant may raise such denial before the Board in connection with the grievance.

(b) In considering a grievance, the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requested to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

SEC. 1109.³⁷⁴ RELATIONSHIP TO OTHER REMEDIES.—(a)(1)³⁷⁵ A grievant may not file a grievance with the Board if the grievant

³⁷²Sec. 153(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added subsec. (f).

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

³⁷³22 U.S.C. 4138.

³⁷⁴22 U.S.C. 4139.

³⁷⁵Sec. 153(d)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added par. designation (1) and redesignated subsec. (b) as par. (2). In newly designated par. (2), it further struck "subsection (a)" and inserted "paragraph (1)"; struck "under this section" and inserted "under this subsection"; and added a new par. (3).

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1214 or 1221³⁷⁶ of title 5, United States Code, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(2) If a grievant is not prohibited from filing a grievance under paragraph (1), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5, United States Code, or a regulation or Executive order other than under this chapter. An election of remedies under this subsection shall be final upon the acceptance of jurisdiction by the Board.

(3)³⁷⁵ This subsection shall not apply to any grievance with respect to which subsection (b) applies.

(b)³⁷⁷ (1) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), a grievant may either—

(A) file a grievance under this chapter, or

(B) initiate in writing a proceeding under another provision of law, regulation, or Executive order that authorizes relief, but not both.

(2) A grievant shall be considered to have exercised the option under paragraph (1) as soon as the grievant timely either—

(A) files a grievance under this chapter, or

(B) initiates in writing a proceeding under such other provision of law, regulation, or Executive order.

SEC. 1110.³⁷⁸ JUDICIAL REVIEW.—(a)³⁷⁹ Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code, if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States).³⁸⁰ Section 706 of title 5,

³⁷⁶Sec. 9 of the Whistleblower Protection Act (Public Law 101-12; 103 Stat. 35) made a conforming amendment at this point, striking reference to section 1206 and inserting reference to section 1214 or 1221.

³⁷⁷Sec. 153(d)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), added subsec. (b).

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

³⁷⁸22 U.S.C. 4140.

³⁷⁹Sec. 153(e) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), added subsec. designation (a); and added a new subsec. (b).

Sec. 153(e)(2) of that Act also added the third sentence in subsec. (a).

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

³⁸⁰Sec. 177(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 414), inserted " , if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the

United States Code, shall apply without limitation or exception. This subsection shall not apply to any grievance with respect to which subsection (b) applies.³⁷⁹

(b)³⁷⁹ (1) For purposes of this subsection, the term “aggrieved party” means a grievant.

(2) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), judicial review of whether the act, omission, or condition that is the basis of the grievance violates such law, rule, regulation, or policy directive may be obtained by an aggrieved party only if such party commences a civil action, not later than 90 days after such party receives notice of the final action of the Secretary or the Board, in an appropriate district court of the United States for de novo review.

CHAPTER 12—FOREIGN SERVICE INTERNSHIP PROGRAM³⁸¹

SEC. 1201.^{381, 382} STATEMENT OF POLICY; OBJECTIVES.

(a) STATEMENT OF POLICY.—Consistent with the findings of section 101, the Foreign Service of the United States should be representative of the American people. In order to facilitate and encourage the entry into the Foreign Service of individuals who meet the rigorous requirements of the Service, while ensuring a Foreign Service system which reflects the cultural and ethnic diversity of the United States, intensive recruitment efforts are mandated. This is particularly true for Native Americans, African Americans, and Hispanic Americans, where other affirmative action and equal opportunity efforts have not been successful in attracting the ablest applicants for entry into the Foreign Service. The United States remains committed to equal opportunity and to a Foreign Service system operated on the basis of merit principles.

(b) OBJECTIVES.—The objective of this chapter is to strengthen and improve the Foreign Service of the United States through the establishment of a Foreign Service Internship Program. The program shall promote the Foreign Service as a viable and rewarding career opportunity for qualified individuals who reflect the cultural and ethnic diversity of the United States through a highly selective internship program for students enrolled in institutions of higher education.

SEC. 1202.^{381, 383} FOREIGN SERVICE INTERNSHIP PROGRAM.

(a) ESTABLISHMENT.—In consultation with the heads of other agencies utilizing the Foreign Service system, the Secretary of State shall establish a Foreign Service internship program to carry out the objectives of this chapter in accordance with the provisions of this chapter.

request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States) after “United States Code”.

³⁸¹ Sec. 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 39), added chapter 12. Sec. 149(d) of that Act also provided the following:

³⁸² (d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of the Foreign Service Internship Program.”.

³⁸² 22 U.S.C. 4141.

³⁸³ 22 U.S.C. 4141a.

(b) FOREIGN SERVICE INTERNSHIP PROGRAM.—The program shall introduce interns to the practice of diplomacy and the unique rewards of the Foreign Service. The program shall consist of three successive summer internships of not less than eight weeks duration in each year to be completed over the course of not more than four years. Special emphasis shall be given to preparing the intern for the Foreign Service examination process. In each year not less than 10 interns shall enter the program.

(c) ELIGIBILITY TO PARTICIPATE.—

(1) Students enrolled full-time in institutions of higher education from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service and for whom equal opportunity and affirmative action recruitment efforts have not been successful in achieving balanced representation in appointments to the Foreign Service shall be eligible to be interns in programs under this chapter.

(2) An intern shall have successfully completed not less than one academic year of study at an institution of higher education to be admitted to the program. In each succeeding year of participation an intern shall have completed an additional year of undergraduate or graduate study and shall maintain an exemplary record of academic achievement.

(3) In selecting interns, the Secretary shall consider only the ablest students of superior ability selected on the basis of demonstrated achievement and exceptional promise whose academic records reflect the requisite standards of performance necessary for the Foreign Service.

(d) SUMMER INTERNSHIPS.—

(1) The primary focus of the first internship shall be the study of international relations, the functions of the Department of State and other agencies which utilize the Foreign Service system, and the nature of the Foreign Service. The internship shall be held in Washington, District of Columbia, at the Department of State. As appropriate, the Secretary shall utilize the personnel and facilities of the Foreign Service Institute.

(2) The second internship shall be, principally, an assignment to a specific bureau of the Department of State. Emphasis shall be on providing insight into the economic and political functional areas.

(3) The third internship shall be an assignment to a United States mission abroad in the political or economic area.

(4) The first and second internships may include a detail to the Congress.

(e) ADMINISTRATION.—The Secretary of State shall determine the academic requirements, other selection criteria, and standards for successful completion of each internship period. The Secretary shall be responsible for the design, implementation, and operation of the program.

(f) MENTORS.—Each intern shall be assigned a career Foreign Service officer as a mentor. The mentor shall act as a counselor and advisor throughout each summer internship and as a personal Foreign Service contact throughout the period of participation in

the program. In the assignment of mentors, the Secretary shall give preference to Foreign Service officers who volunteer for such assignment and who may be role models for the interns.

(g) COMPENSATION.—Interns shall be compensated at a rate determined by the Secretary which shall not be less than the compensation of comparable summer interns at the Department of State. As determined by the Secretary, for the purposes of travel, housing, health insurance, and other appropriate benefits, interns shall be considered employees of the Foreign Service during each internship period.

(h) STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall study the feasibility of administering the Foreign Service examination in separate segments over several years. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report summarizing the findings of such a study to the Committee on Foreign Affairs³⁸⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 1203.^{381, 385} REPORT TO CONGRESS.

Together with the annual submission required under section 105(d)(2), the Secretary of State shall submit a report to the Congress concerning the implementation of the program established under this chapter. Such report accompanied by such other information as the Secretary considers appropriate, shall include specific information concerning the completion rates of interns in the program, interns who took the Foreign Service examination, interns who passed the examination, former interns appointed to the Foreign Service, assignments of former interns, and the advancement of former interns through the Foreign Service System.

SEC. 1204.^{381, 386} AUTHORIZATION OF APPROPRIATIONS.

Of the amounts authorized to be appropriated by section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, \$100,000 for the fiscal year 1990 and \$150,000 for the fiscal year 1991 shall be available only to carry out this chapter. Sums appropriated for the purposes of this chapter are authorized to remain available until expended.

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS,
AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

SEC. 2101.³⁸⁷ PAY AND BENEFITS PENDING CONVERSION.—Until converted under the provisions of this chapter, any individual who is in the Foreign Service before the effective date of this Act and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer

³⁸⁴Sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

³⁸⁵22 U.S.C. 4141b.

³⁸⁶22 U.S.C. 4141c. Section 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90), waived sec. 1204, as added by sec. 149(b) of that Act, for fiscal years 1990 and 1991, effective on the date of enactment of that Act (February 16, 1990).

³⁸⁷22 U.S.C. 4151.

with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 2102 or 2103, as the case may be, on the effective date of this Act, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on the date of enactment of this Act, on the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after the date of enactment of this Act, on the date such appointment becomes effective.

SEC. 2102.³⁸⁸ CONVERSION TO THE FOREIGN SERVICE SCHEDULE.—(a) Not later than 120 days after the effective date of this Act, the Secretary shall, in accordance with section 2106, convert to the appropriate class in the Foreign Service Schedule established under section 403 of this Act those individuals in the Foreign Service who are serving immediately before the effective date of this Act under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as—

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service staff officers or employees, who the Secretary determines are available for worldwide assignment.

(b) Not later than 3 years after the effective date of this Act, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 2106, to the appropriate class in the Foreign Service Schedule established under section 403 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

SEC. 2103.³⁸⁹ CONVERSION TO THE SENIOR FOREIGN SERVICE.—(a) Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before the effective date of this Act, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service.

(b) Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(c) If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign

³⁸⁸ 22 U.S.C. 4152.

³⁸⁹ 22 U.S.C. 4153.

Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(d) If the Secretary determines that a Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after the effective date of this Act and before the end of the 3-year period beginning on such effective date, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established under section 402 of this Act, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of chapter 6 of title I of this Act relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after the effective date of this Act. During such period, the officer shall be subject to the provisions of title I of this Act applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 405 and shall not be eligible for a limited career extension as described in section 607(b). Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits on the same basis as a member retired from the Senior Foreign Service under section 607(c)(1), and section 609(a)(2)(B) shall be deemed to apply to such officer.³⁹⁰

³⁹⁰Sec. 128 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) substituted the words to this point beginning with “on the same basis as a member retired” in lieu of the words “determined in accordance with chapter 8 of title I of this Act.”

SEC. 2104.³⁹¹ CONVERSION FROM THE FOREIGN SERVICE.—(a) In the case of any individual in the Foreign Service who, immediately before the effective date of this Act, is serving under an appointment described in section 2102(a) or 2103(a) and who is not converted under section 2102 or section 2103 because such individual does not meet the conditions specified in section 2102(b) or 2103(d), the Secretary shall, not later than 3 years after the effective date of this Act, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5, United States Code.

(b) In the case of individuals in the Foreign Service in the United States Information Agency³⁹² who immediately before the date of enactment of this Act are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

(c)³⁹³ The three-year period referred to in subsection (a) shall be extended for an additional period not to exceed one year from the date of enactment of this section in the case of Department of State security officers who are members of the Service and who were initially ineligible for conversion under that subsection because they were available for worldwide assignment and there was a need for their services in the Service, but as to whom subsequent events require the services of these members (and of those later employed who are similarly situated) only or primarily for domestic functions.

SEC. 2105.³⁹⁴ CONVERSION OF CERTAIN POSITIONS IN THE DEPARTMENT OF AGRICULTURE.—(a) Not later than 15 days after the effective date of this Act, the Secretary of Agriculture shall—

(1) designate and classify under section 501 of this Act those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5, United States Code, which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

³⁹¹ 22 U.S.C. 4154.

³⁹² “United States Information Agency” was substituted for “International Communication Agency” pursuant to sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: “Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).”

³⁹³ Sec. 132 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1028) added subsec. (c).

³⁹⁴ 22 U.S.C. 4155.

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under section 103 which will apply to such individual.

(b) Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c)(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

SEC. 2106.³⁹⁵ PRESERVATION OF STATUS AND BENEFITS.—(a)(1) Every individual who is converted under this chapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this chapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary.

(2) An individual converted under section 2104 to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b)(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the

³⁹⁵ 22 U.S.C. 4156.

Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 2104 may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Individuals who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this chapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Any individual who on the effective date of this Act is serving—

- (1) under an appointment in the Foreign Service, or
- (2) in any other office or position continued by this Act,

may continue to serve under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Any individual in the Foreign Service—

- (1) who is serving under a career appointment on the date of enactment of this Act, and
- (2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before the effective date of this Act,

may not be retired under section 608 of this Act until 10 years after the effective date of this Act or when such individual first becomes eligible for an immediate annuity under chapter 8 of title I of this Act, whichever occurs first.

SEC. 2107.³⁹⁶ REGULATIONS.—Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this chapter.

SEC. 2108.³⁹⁷ AUTHORITY OF OTHER AGENCIES.—The heads of agencies other than the Department of State which utilize the Foreign Service personnel system shall perform functions under this chapter in accordance with regulations prescribed by the Secretary of State under section 2107. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

³⁹⁶ 22 U.S.C. 4157.

³⁹⁷ 22 U.S.C. 4158.

SEC. 2109.³⁹⁸ SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any participant or former participant in the Foreign Service Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 814(b).

(b)(1) If the participant or former participant has not retired under such system on or before February 15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

(3) For purposes of applying chapter 8 of title I, any such election shall be treated the same as if it were a spousal agreement under section 820(b)(1).

(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 806(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 806(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) For purposes of this section, the terms “former spouse”, “participant”, and “spousal agreement” have the meanings given such terms in sections 803 and 804.

CHAPTER 2—PROVISIONS RELATING TO FOREIGN AFFAIRS AGENCIES

SEC. 2201.³⁹⁹ BASIC AUTHORITIES OF THE DEPARTMENT OF STATE.—* * *

SEC. 2202.⁴⁰⁰ PEACE CORPS ACT.—* * *

SEC. 2203.⁴⁰¹ FOREIGN ASSISTANCE ACT.—* * *

SEC. 2204.⁴⁰² ARMS CONTROL AND DISARMAMENT ACT.—* * *

SEC. 2205. REPEALED PROVISIONS.—* * *

SEC. 2206. OTHER CONFORMING AMENDMENTS.—* * *

SEC. 2207.⁴⁰³ MODEL FOREIGN LANGUAGE COMPETENCE POSTS.—(a) In order to carry out the purposes of section 702 and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language

³⁹⁸ 22 U.S.C. 4159.

³⁹⁹ Sec. 2201 consisted of amendments to the State Department Basic Authorities Act of 1956.

⁴⁰⁰ Sec. 2202 consisted of amendments to the Peace Corps Act.

⁴⁰¹ Sec. 2203 consisted of amendments to the Foreign Assistance Act of 1961.

⁴⁰² Sec. 2204 consisted of amendments to the Arms Control and Disarmament Act.

⁴⁰³ 22 U.S.C. 4171. See also sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 46), relating to foreign language competence within the Foreign Service.

competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.

(b) The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

(c)⁴⁰⁴ The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require.

CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

* * * * *

CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

SEC. 2401.⁴⁰⁵ SAVING PROVISIONS.—(a) All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

(b) This Act shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or repealed by this Act, with respect to any individual who became entitled to such benefit prior to the effective date of this Act.

(c) References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

SEC. 2402.⁴⁰⁶ CONGRESSIONAL OVERSIGHT OF IMPLEMENTATION.—

⁴⁰⁴ Sec. 139(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398) struck out a second sentence in this subsec., which had required: "Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

Sec. 139(25) of the that Act made an identical amendment.

⁴⁰⁵ 22 U.S.C. 4172.

⁴⁰⁶ 22 U.S.C. 4173.

(a)⁴⁰⁷ * * * [Repealed—1987]

(b)⁴⁰⁷ * * * [Repealed—1987]

(c) The Secretary shall consult, in accordance with the procedures set out in section 1013(g), with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 1003(a) with respect to steps to be taken in implementing this Act and reported under section 601(c)(4).⁴⁰⁸ To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report.

SEC. 2403.⁴⁰⁹ EFFECTIVE DATE.—(a) Except as otherwise provided, this Act shall take effect on February 15, 1981.

(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act had been in effect at the beginning of that cycle.

(c)⁴⁰⁹ * * * [Repealed—1985]

(d)(1) Section 812 of this Act, and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 and section 625(k) of the Foreign Assistance Act of 1961, shall be effective as of the date of enactment of this Act.

(2) For purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.

(e)(1) The provisions of chapter 8 of title I regarding the rights of former spouses to any annuity under section 814(a) shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

(2) Except to the extent provided in section 2109, the provisions of such chapter regarding the rights of former spouses to receive survivor annuities under chapter 8 shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of a participant or former participant in the Foreign Service Retirement and Disability System.

⁴⁰⁷Sec. 2402(a) and (b) were repealed by sec. 185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366). Subsec. (a) required the Secretary of State to submit a report to the Congress by February 1, 1982, describing the implementation of the Foreign Service Act during the fiscal year 1981. Subsec. (b) required the Secretary of State to submit thereafter an annual report.

⁴⁰⁸Sec. 185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366) substituted the words “section 601(c)(4)” in lieu of “this section”.

⁴⁰⁹22 U.S.C. 3901 note. Section 2403(c) was repealed effective October 1, 1985 by sec. 119(b) Public Law 99-93 (99 Stat. 405).

The repealed provision read as follows:

“(c) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in section 305(b) until October 1, 1985. Prior to that date, the number of members serving in the Senior Foreign Service under limited appointments by the Secretary of Commerce may not exceed 10 at any one time (excluding individuals with reemployment rights under section 310 as career appointees in the Senior Executive Service).”.

b. Foreign Affairs Agencies Consolidation Act of 1998

Partial text of Public Law 105–277 [Omnibus Consolidated and emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681–765, approved October 21, 1998; amended by Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999

DIVISION G—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998

SEC. 1001.¹ SHORT TITLE.

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.

(a)² DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.³

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

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¹ 22 U.S.C. 6501 note.

² Sec. 802(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out para. (3) of this subsec., which had referred to a subdivision K—United Nations Reform Act of 1998.

³ For text, see page 168.

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* * * * * * *

NOTE.—The Foreign Affairs Agencies Consolidation Act of 1998 amends the State Department Basic Authorities Act of 1956, Arms Control and Disarmament Act, Arms Export Control Act, Foreign Assistance Act of 1961, United States Institute of Peace Act, Atomic Energy Act of 1954, Nuclear Non-Proliferation Act of 1978, Inspector General Act of 1978, International Broadcasting Act of 1994, Radio Broadcasting to Cuba Act, Television Broadcasting to Cuba Act, United States Information and Educational Exchange Act of 1948, and other legislation, to implement the reorganization and consolidation of U.S. foreign affairs agencies. Amendments have been incorporated into the texts of these Acts at the appropriate locations.

SUBDIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE XI—GENERAL PROVISIONS

SEC. 1101.⁴ SHORT TITLE.

This subdivision may be cited as the “Foreign Affairs Agencies Consolidation Act of 1998”.

SEC. 1102.⁵ PURPOSES.

The purposes of this subdivision are—

(1) to strengthen—

(A) the coordination of United States foreign policy; and

⁴ 22 U.S.C. 6501 note.

⁵ 22 U.S.C. 6501.

- (B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;
- (2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—
- (A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;
- (B) transferring certain functions of the Agency for International Development to the Department of State; and
- (C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminate redundancy in functions, and improvement in the management of the Department of State;
- (3) to ensure that programs critical to the promotion of United States national interests be maintained;
- (4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;
- (5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and
- (6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

SEC. 1103.⁶ DEFINITIONS.

In this subdivision:

- (1) ACDA.—The term “ACDA” means the United States Arms Control and Disarmament Agency.
- (2) AID.—The term “AID” means the United States Agency for International Development.
- (3) AGENCY; FEDERAL AGENCY.—The term “agency” or “Federal agency” means an Executive agency as defined in section 105 of title 5, United States Code.
- (4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.
- (5) COVERED AGENCY.—The term “covered agency” means any of the following agencies: ACDA, USIA, IDCA, and AID.
- (6) DEPARTMENT.—The term “Department” means the Department of State.
- (7) FUNCTION.—The term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.
- (8) IDCA.—The term “IDCA” means the United States International Development Cooperation Agency.

⁶ 22 U.S.C. 6502.

(9) OFFICE.—The term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) SECRETARY.—The term “Secretary” means the Secretary of State.

(11) USIA.—The term “USIA” means the United States Information Agency.

SEC. 1104.⁷ REPORT ON BUDGETARY COST SAVINGS RESULTING FROM REORGANIZATION.

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 2000 and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this subdivision, including cost savings by each of the following categories:

- (1) Reductions in personnel.
- (2) Administrative consolidation, including procurement.
- (3) Program consolidation.
- (4) Consolidation of real properties and leases.

TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201.⁸ EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

SEC. 1211.⁹ ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

The United States Arms Control and Disarmament Agency is abolished.

SEC. 1212.¹⁰ TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

⁷ 22 U.S.C. 6503.

⁸ 22 U.S.C. 6511 note.

⁹ 22 U.S.C. 6511.

¹⁰ 22 U.S.C. 6512.

SEC. 1213. UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651(b)) is amended—* * *¹¹

CHAPTER 3—CONFORMING AMENDMENTS**SEC. 1221.¹² REFERENCES.**

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

SEC. 1222. REPEALS.

The following sections of the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) are repealed: Sections 21 through 26 (22 U.S.C. 2561–2566), section 35 (22 U.S.C. 2575), section 42 (22 U.S.C. 2582), section 43 (22 U.S.C. 2583), sections 45 through 50 (22 U.S.C. 2585–2593), section 53 (22 U.S.C. 2593c), section 54 (22 U.S.C. 2593d), and section 63 (22 U.S.C. 2595b).

SEC. 1223. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.

The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—* * *¹³

SEC. 1224. COMPENSATION OF OFFICERS.

Title 5, United States Code, is amended—* * *

SEC. 1225. ADDITIONAL CONFORMING AMENDMENTS.

(a) **ARMS EXPORT CONTROL ACT.**—The Arms Export Control Act is amended—* * *¹⁴

(b) **FOREIGN ASSISTANCE ACT.**—Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321d) is amended by * * *¹⁵

(c) **UNITED STATES INSTITUTE OF PEACE ACT.**—* * *

(d) **ATOMIC ENERGY ACT OF 1954.**—The Atomic Energy Act of 1954 is amended—* * *

(e) **NUCLEAR NON-PROLIFERATION ACT OF 1978.**—The Nuclear Non-Proliferation Act of 1978 is amended—* * *

¹¹Sec. 1213 amended the State Department Basic Authorities Act of 1956 to provide for the Under Secretary for Arms Control and International Security.

¹²22 U.S.C. 6521.

¹³Sec. 1223 substantially amended and redesignated the remaining sections of the Arms Control and Disarmament Act. See notes accompanying that Act.

¹⁴For amendments incorporated into sections 36, 38, 42, 71, and 73, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

¹⁵For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

(f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 23(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended * * *

(g) FOREIGN RELATIONS AUTHORIZATION ACT OF 1972.—Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended * * *

(h) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “, or the Director of the Arms Control and Disarmament Agency”.

TITLE XIII—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301.¹⁶ EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) October 1, 1999; or
- (2) the date of abolition of the United States Information Agency pursuant to the reorganization plan described in section 1601.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

SEC. 1311.¹⁷ ABOLITION OF UNITED STATES INFORMATION AGENCY.

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

SEC. 1312.¹⁸ TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

(b) EXCEPTION.—Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.”.

¹⁶ 22 U.S.C. 6531 note.

¹⁷ 22 U.S.C. 6531.

¹⁸ 22 U.S.C. 6532.

SEC. 1314.¹⁹ ABOLITION OF OFFICE OF INSPECTOR GENERAL OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS.

(a) **ABOLITION OF OFFICE.**—The Office of Inspector General of the United States Information Agency is abolished.

(b) **AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.**—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “the Office of Personnel Management, the United States Information Agency” and inserting “or the Office of Personnel Management”; and

(2) in paragraph (2), by striking “the United States Information Agency,”.

(c) **EXECUTIVE SCHEDULE.**—Section 5315 of title 5, United States Code, is amended by striking the following:

“Inspector General, United States Information Agency.”.

(d) **AMENDMENTS TO PUBLIC LAW 103-236.**—Subsections (i) and (j) of section 308 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207 (i) and (j)) are amended—

(1) by striking “Inspector General of the United States Information Agency” each place it appears and inserting “Inspector General of the Department of State and the Foreign Service”; and

(2) by striking “, the Director of the United States Information Agency,”.

(e) **TRANSFER OF FUNCTIONS.**—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

CHAPTER 3—INTERNATIONAL BROADCASTING

SEC. 1321.²⁰ CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

¹⁹ 22 U.S.C. 6533.

²⁰ 22 U.S.C. 6541.

SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:
* * *

SEC. 1323. CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994. * * ***SEC. 1324. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.**

The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended—* * *

SEC. 1325. AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT.

The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is amended—* * *

SEC. 1326.²¹ TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) ADDITIONAL TRANSFERS.—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) TRANSFER OF PERSONNEL.—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and

²¹ 22 U.S.C. 6542.

the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

SEC. 1327.²² SAVINGS PROVISIONS.

(a) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) ORDERS, APPEALS, AND PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated,

²² 22 U.S.C. 6543.

superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.—

(1) SUBSTITUTION OF PARTIES.—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) LIABILITY OF THE BOARD.—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

SEC. 1328.²³ REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years

²³ 22 U.S.C. 6544.

1994 and 1995. The report under this subsection shall include the following:

(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 312(a) of that Act.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

CHAPTER 4—CONFORMING AMENDMENTS

SEC. 1331.²⁴ REFERENCES.

(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).

SEC. 1332. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in section 5313, by striking “Director of the United States Information Agency.”;

(2) in section 5315—

(A) by striking “Deputy Director of the United States Information Agency.”; and

(B) by striking “Director of the International Broadcasting Bureau, the United States Information Agency.” and inserting “Director of the International Broadcasting Bureau.”; and

(3) in section 5316—

(A) by striking “Deputy Director, Policy and Plans, United States Information Agency.”; and

²⁴ 22 U.S.C. 6551.

(B) by striking “Associate Director (Policy and Plans), United States Information Agency.”.

SEC. 1333.²⁵ APPLICATION OF CERTAIN LAWS.

(a) **APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

(b) **APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

(c) **LIMITATION ON USE OF FUNDS.**—(1)²⁶ Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes,²⁷ shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

(2)²⁶ **CONSTRUCTION.**—Nothing in paragraph (1) may be construed (A) to interfere with the integration of administrative resources between public diplomacy and other functions of the Department of State or to prevent the occasional performance of functions other than public diplomacy by officials or employees of the Department of State who are primarily assigned to public diplomacy, provided there is no substantial resulting diminution in the amount of resources devoted to public diplomacy below the amounts described in paragraph (1), or (B) to supersede reprogramming procedures.

(d) **REPORTING REQUIREMENTS.**—The report submitted pursuant to section 1601(f) of this subdivision shall include a detailed statement of the manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this subdivision shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

²⁵ 22 U.S.C. 6552.

²⁶ Sec. 304(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536) struck out “Except” and inserted in lieu thereof “(1) Except”. Sec. 304(3) of that Act added para. (2).

²⁷ Sec. 304(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted “, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes,” after “diplomacy programs”.

(1) the amounts expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) CONGRESSIONAL PRESENTATION DOCUMENT.—The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

SEC. 1334.²⁸ SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law until October 1, 2001.

²⁸ 22 U.S.C. 6553. Sec. 404(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), amended and restated sec. 1334. It had previously read as follows:

“SEC. 1334. ABOLITION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

“(a) ABOLITION.—The United States Advisory Commission on Public Diplomacy is abolished.

“(b) REPEALS.—Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977 are repealed.”

Sec. 404(b) through (e) of the Nance/Donovan Act, furthermore, provided as follows:

“(b) RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

“(c) REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.—

“(1) REENACTMENT.—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.

“(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

“(d) CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

“(e) REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.”

SEC. 1335. CONFORMING AMENDMENTS. * * * ²⁹**SEC. 1336. REPEALS.**

The following provisions are repealed:

(1) Sections 701 (22 U.S.C. 1476), 704 (22 U.S.C. 1477b), 807 (22 U.S.C. 1475b), 808 (22 U.S.C. 1475c), 811 (22 U.S.C. 1475f), and 1009 (22 U.S.C. 1440) of the United States Information and Educational Exchange Act of 1948.

(2) Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)).

(3) Section 565(e) of the Anti-Economic Discrimination Act of 1994 (22 U.S.C. 2679c(e)).

(4) Section 206(b) of Public Law 102-138.

(5) Section 2241 of Public Law 104-66.

(6) Sections 1 through 6 of Reorganization Plan Numbered 2 of 1977 (91 Stat. 636).

(7) Section 207 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 1463 note).

**TITLE XIV—UNITED STATES INTERNATIONAL
DEVELOPMENT COOPERATION AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1401.³⁰ EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) April 1, 1999; or

(2) the date of abolition of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS**SEC. 1411.³¹ ABOLITION OF UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.**

(a) **IN GENERAL.**—Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) **AID AND OPIC EXEMPTED.**—Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

SEC. 1412.³² TRANSFER OF FUNCTIONS AND AUTHORITIES.

(a) **ALLOCATION OF FUNDS.**—

²⁹Sec. 1335 made conforming amendments to the United States Information and Educational Exchange Act of 1948, Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, National and Community Service Act of 1990, Public Law 97-446, Public Law 103-227, Fascell Fellowship Act, Intelligence Authorization Act, Fiscal Year 1992, Federal Triangle Development Act, Woodrow Wilson Memorial Act of 1968, Public Law 89-329, Foreign Service Act of 1980, State Department Authorities Act of 1956, Public Law 103-317, Public Law 92-352, Public Law 104-288, 49 U.S.C., Public Law 102-138, and Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.

³⁰22 U.S.C. 6561 note.

³¹22 U.S.C. 6561.

(1) ALLOCATION TO THE SECRETARY OF STATE.—Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1-801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated to the Secretary of State on and after the effective date of this title without further action by the President.

(2) PROCEDURES FOR REALLOCATIONS OR TRANSFERS.—The Secretary of State may allocate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1-802 of that Executive Order, as in effect on October 1, 1997.

(b) WITH RESPECT TO THE OVERSEAS PRIVATE INVESTMENT CORPORATION.—There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this title with respect to the Overseas Private Investment Corporation.

(c) OTHER ACTIVITIES.—The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

SEC. 1413.³³ STATUS OF AID.

(a) IN GENERAL.—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

(b) RETENTION OF OFFICERS.—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development Cooperation Agency as of the day before the effective date of this title.

CHAPTER 3—CONFORMING AMENDMENTS

SEC. 1421.³⁴ REFERENCES.

Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 1412(a), shall be deemed to refer to the Secretary of State;

³² 22 U.S.C. 6562.

³³ 22 U.S.C. 6563.

³⁴ 22 U.S.C. 6571.

(2) insofar as such reference relates to any function or authority transferred under section 1412(b), shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 1412(c), shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this title, shall be deemed to refer to the President or such agency or agencies as may be specified by Executive order.

SEC. 1422. CONFORMING AMENDMENTS.

(a) **TERMINATION OF REORGANIZATION PLANS AND DELEGATIONS.**—The following shall cease to be effective:

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Section 1-101 through 1-103, sections 1-401 through 1-403, section 1-801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order No. 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for section 1-6 of such Delegation of Authority.

(4) Section 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of 1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and section 301 of title 3, United States Code).

(b) **OTHER STATUTORY AMENDMENTS AND REPEAL.**—

(1) **TITLE 5.**—Section 7103(a)(2)(B)(iv) of title 5, United States Code, is amended * * *

(2) **INSPECTOR GENERAL ACT OF 1978.**—Section 8A of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—* * *

(3) **STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.**—The State Department Basic Authorities Act of 1956 is amended—* * *

(4) **FOREIGN SERVICE ACT OF 1980.**—The Foreign Service Act of 1980 is amended—* * *

(5) **REPEAL.**—Section 413 of Public Law 96-53 (22 U.S.C. 3512) is repealed.

(6) **TITLE 49.**—Section 40118(d) of title 49, United States Code, is amended * * *

(7) **EXPORT ADMINISTRATION ACT OF 1979.**—Section 2405(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)) is amended—* * *

TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

CHAPTER 1—GENERAL PROVISIONS

SEC. 1501.³⁵ EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of reorganization of the Agency for International Development pursuant to the reorganization plan described in section 1601.

CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

SEC. 1511.³⁶ REORGANIZATION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—The Agency for International Development shall be reorganized in accordance with this subdivision and the reorganization plan transmitted pursuant to section 1601.

(b) FUNCTIONS TO BE TRANSFERRED.—The reorganization of the Agency for International Development shall provide, at a minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

- (1) The Press office.
- (2) Certain administrative functions.

CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

SEC. 1521.³⁷ DEFINITION OF UNITED STATES ASSISTANCE.

In this chapter, the term “United States assistance” means development and other economic assistance, including assistance made available under the following provisions of law:

- (1) Chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).
- (2) Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).
- (3) Chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa).
- (4) Chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance for the independent states of the former Soviet Union).
- (5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

SEC. 1522.³⁸ ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.

The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act

³⁵ 22 U.S.C. 6581 note.

³⁶ 22 U.S.C. 6581.

³⁷ 22 U.S.C. 6591.

³⁸ 22 U.S.C. 6592.

of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

SEC. 1523.³⁹ ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.

(a) **AUTHORITY OF THE SECRETARY OF STATE.—**

(1) **IN GENERAL.—**Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) **EXPORT PROMOTION ACTIVITIES.—**Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) **INTERNATIONAL ECONOMIC ACTIVITIES.—**Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) **AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—**The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) **COORDINATION ACTIVITIES.—**Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) **STATUTORY CONSTRUCTION.—**Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) **AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—**The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

³⁹22 U.S.C. 6593.

TITLE XVI—TRANSITION**CHAPTER 1—REORGANIZATION PLAN****SEC. 1601.⁴⁰ REORGANIZATION PLAN AND REPORT.**

(a) **SUBMISSION OF PLAN AND REPORT.**—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this subdivision;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 1511;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this subdivision, and the termination of the affairs of each agency abolished under this subdivision;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this subdivision; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) **COVERED AGENCIES.**—The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.

(4) The Agency for International Development.

(c) **PLAN ELEMENTS.**—The plan transmitted under subsection (a) shall contain, consistent with this subdivision, such elements as the President deems appropriate, including elements that—

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

⁴⁰ 22 U.S.C. 6601.

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) REORGANIZATION PLAN OF AGENCY FOR INTERNATIONAL DEVELOPMENT.—In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 1511; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) REPORT.—The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred within the

Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this subdivision relating to personnel and to incidental transfers.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) STATUTORY EFFECTIVE DATES.—The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) April 1, 1999, with respect to functions of the Agency for International Development described in section 1511.

(B) April 1, 1999, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) EFFECTIVE DATE BY PRESIDENTIAL DETERMINATION.—An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

(h) PUBLICATION.—The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

CHAPTER 2—REORGANIZATION AUTHORITY

SEC. 1611.⁴¹ REORGANIZATION AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized, subject to the requirements of this subdivision, to allocate or reallocate any function transferred to the Department under any title of this subdivision, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or

⁴¹22 U.S.C. 6611.

appropriate to carry out any reorganization under this subdivision, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) **REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLAN.**—The reorganization plan transmitted under section 1601 may not have the effect of—

- (1) creating a new executive department;
- (2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;
- (3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;
- (4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or
- (5) increasing the term of an office beyond that provided by law for the office.

SEC. 1612.⁴² TRANSFER AND ALLOCATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—Except as otherwise provided in this subdivision, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1615(e)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any title of this subdivision shall be transferred to the Secretary for appropriate allocation.

(b) **LIMITATION ON USE OF TRANSFERRED FUNDS.**—Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any title of this subdivision shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) **FUNDS TO FACILITATE TRANSITION.**—

(1) **CONGRESSIONAL NOTIFICATION.**—Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(2) **TRANSFER AUTHORITY.**—Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

⁴²22 U.S.C. 6612.

SEC. 1613.⁴³ TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL.

(a) TRANSFER OF PERSONNEL FROM ACDA AND USIA.—Except as otherwise provided in title XIII—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA,

shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) TRANSFER OF PERSONNEL FROM AID.—Except as otherwise provided in title XIII, not later than the date of transfer of any function of AID to the Department of State under this subdivision, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) ASSIGNMENT AUTHORITY.—The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State.⁴⁴ The Secretary shall consult with the relevant exclusive representatives (as defined in section 1002 of the Foreign Service Act and in section 7103 of title 5, United States Code) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) SUPERSEDING OTHER PROVISIONS OF LAW.—Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

SEC. 1614.⁴⁵ INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental

⁴³22 U.S.C. 6613.

⁴⁴Sec. 341 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added “In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State.”

⁴⁵22 U.S.C. 6614.

dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this subdivision. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the termination of the affairs of all entities terminated by this subdivision and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this subdivision.

SEC. 1615.⁴⁶ SAVINGS PROVISIONS.

(a) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this subdivision; and

(2) that are in effect as of the effective date of such title, or were final before the effective date of such title and are to become effective on or after the effective date of such title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of any title of this subdivision shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this subdivision before any Federal agency, commission, or component thereof, functions of which are transferred by any title of this subdivision. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) ORDERS, APPEALS, PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subdivision had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subdivision shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subdivision had not been enacted.

⁴⁶22 U.S.C. 6615.

(4) REGULATIONS.—The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as provided in subsection (e) and section 1327(d)—

(1) the provisions of this subdivision shall not affect suits commenced prior to the effective dates of the respective titles of this subdivision; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this subdivision had not been enacted.

(d) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, shall abate by reason of the enactment of this subdivision. No cause of action by or against any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this subdivision.

(e) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the effective date of any title of this subdivision, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this subdivision any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this subdivision shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this subdivision shall apply to the exercise of such function by the Secretary.

SEC. 1616.⁴⁷ AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION.

Notwithstanding any provision of this subdivision, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this subdivision, may transfer the whole or part of such functions prior to the effective dates established in this subdivision, including the transfer of personnel and funds associated with such functions.

SEC. 1617.⁴⁸ FINAL REPORT.

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office

⁴⁷ 22 U.S.C. 6616.

⁴⁸ 22 U.S.C. 6617.Z VOLUME II—jacket number 70-365 filename—70365.025

of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this subdivision.

c. International Postal Arrangements; Postal Services at Diplomatic Posts

Partial text of 39 United States Code, as amended by Public Law 101-524 [Deceptive Mailings Prevention Act of 1990; H.R. 2331], 104 Stat. 2301 at 2303, approved November 6, 1990; and by Public Law 105-277 [Treasury and General Government Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681-480, approved October 21, 1998

§ 407. International Postal Arrangements.¹

(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other

¹Sec. 632(a) of Public Law 105-277 (112 Stat. 2681-523) amended and restated sec. 407. Subsecs. (b) and (d) of sec. 632 further provided the following:

“(b) SENSE OF CONGRESS.—It is the sense of Congress that any treaty, convention or amendment entered into under the authority of section 407 of title 39 of the United States Code, as amended by this section, should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.

“(c) * * *

“(d) TRANSFER OF FUNDS.—In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code.”

persons as the Secretary or the Postal Service considers appropriate.

§ 413. Postal services at diplomatic posts.²

(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

(d) Each agreement entered into under this section shall include—

(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.

²Sec. 5(a) of the Deceptive Mailings Prevention Act of 1990 (Public Law 101-524; 104 Stat. 2303) added sec. 413.

d. Foreign Service Retirement Amendments of 1976

Partial text of Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 834, approved July 12, 1976; as amended by Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1977”.

NOTE.—See also title I, chapter 8 of the Foreign Service Act of 1980 for additional legislation concerning the Foreign Service Retirement and Disability System.

* * * * *

TITLE V—FOREIGN SERVICE RETIREMENT

SHORT TITLE

SEC. 500. This title may be cited as the “Foreign Service Retirement Amendments of 1976”.

* * * * *

CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

SEC. 522.¹ * * * [Repealed—1981]

GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS

SEC. 523.² (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of \$300 per annum and provide a survivor benefit of \$2,400 per annum payable to the annuitant’s surviving spouse provided the marriage had been in effect for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as

¹Sec. 522 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

²22 U.S.C. 1076 note.

if it had been elected under section 821(b) of the Foreign Service Act of 1946,³ as amended by this title.

(b) An annuitant who makes an election under subsection (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to \$25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into such Fund by deduction from annuity in multiples of \$25 per month. The annuity reduction under subsection (a) of this section and the deduction under this subsection shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this subsection shall continue until the required amount has been paid into such Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946,³ as amended by this title, the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of \$2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this subsection in accordance with the provisions of subsections (b) and (h) of section 821 of the Foreign Service Act of 1946,³ as amended by this title, if such remarriage has terminated or terminates in the future.

EFFECTIVE DATES

SEC. 524.⁴ (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

(b) Section 522 of this title and sections 803 and 881 of the Foreign Service Act of 1946, as amended by this title,³ shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day of a month in accordance with the provisions of subsections

³Such section was repealed and replaced by the Foreign Service Act of 1980 (Public Law 96-465). Sec. 2401(c) of such Act specified that any references in other Acts to the Foreign Service Act of 1946 would be deemed to be a reference to the corresponding provision of the Foreign Service Act of 1980.

⁴22 U.S.C. 915 note.

(b)(2)(B), (e), and (f) of section 821 of the Foreign Service Act of 1946, as amended by this title.³

(d) The amendment of section 804 of the Foreign Service Act of 1946³ made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

(e) Subsection (g) of section 821 of the Foreign Service Act of 1946, as added by this title,³ shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under such subsection (g) if notice of the election is received by the Secretary of State within one year after such effective date.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(2) of the Foreign Service Act of 1946, as amended by this title,³ such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the Foreign Service Act of 1946, as amended by this title.³ For purposes of section 882(c)(2) of the Foreign Service Act of 1946, as amended by this title,³ the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

(g) The restrictions on payment of survivor annuities in subsection (b)(2)(A) and subsection (h) of section 821 of such Act³ shall not apply to a supplemental survivor annuity provided under subsection (i) of section 821 or subsection (f) of section 832 of such Act³ if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

(h) Subsection (a) of section 822 of the Foreign Service Act of 1946,³ as added by this title,³ shall be effective on the first day of the first month which begins on or after the effective date of this title.

(i) Subsection (a) of section 841 of the Foreign Service Act of 1946, as amended by this title,³ shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service Retirement Fund that become due on and after such effective date shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Subsection (c) of section 851 of the Foreign Service Act of 1946, as added by this title,³ shall be effective on the first day of the first pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees on the effective date of such section shall have sixty days from such date to file an election under subsection (c) of said section 851.

(k) Subsection (f) of section 851 of the Foreign Service Act of 1946, as added by this title,³ shall apply, in addition to present

participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date.

(l) The annuity of a survivor who becomes immediately eligible for an annuity under subsection (c) of section 523 of this title or subsection (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annuity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(m) The amendment of subsections (a) and (b) of section 882 of the Foreign Service Act of 1946³ made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title.

(n) Annuities which commenced between—

(A) the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946³ prior to the effective date of this title, and

(B) such effective date,

shall be recomputed and, if necessary, adjusted retroactively to their commencing dates to apply the provisions of new subsections (c)(1) of section 882 of the Foreign Service Act of 1946, as added by section 515 of this title.³

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946,³ unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years:

RETIREMENT SCHEDULE

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over shall be retired, and thereafter the amendments made by sections 518 and 519 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which the officer completes such service.

e. Coordination Procedures—U.S. Diplomatic Missions

Executive Order No. 10338; April 4, 1952; 17 F.R. 3009; 22 U.S.C. 2382 note

Section 1. Functions of the Chief of the United States Diplomatic Mission. (a) The Chief of the United States Diplomatic Mission in each country, as the representative of the President and acting on his behalf, shall coordinate the activities of the United States representatives (including the chiefs of economic missions, military assistance advisory groups, and other representatives of agencies of the United States Government) in such country engaged in carrying out programs under the Mutual Security Act of 1951 (hereinafter referred to as the Act), and he shall assume responsibility for assuring the unified development and execution of the said programs in such country. More particularly, the functions of each Chief of United States Diplomatic Mission shall include, with respect to the programs and country concerned:

(1) Exercising general direction and leadership of the entire effort.

(2) Assuring that recommendations and prospective plans and actions of the United States representatives are effectively coordinated and are consistent with and in furtherance of the established policy of the United States.

(3) Assuring that the interpretations and application of instructions received by the United States representatives from higher authority are in accordance with the established policy of the United States.

(4) Guiding the United States representatives in working out measures to prevent duplication in their efforts and to promote the most effective and efficient use of all United States officers and employees having mutual security responsibilities.

(5) Keeping the United States representatives fully informed as to current and prospective United States policies.

(6) Prescribing procedures governing the coordination of the activities of the United States representatives, and assuring that these representatives shall have access to all available information essential to the accomplishment of their prescribed duties.

(7) Preparing and submitting such reports on the operation and status of the programs under the Act as may be directed by the Director for Mutual Security.

(b) Each Chief of United States Diplomatic Mission shall perform his functions under this order in accordance with instructions from higher authority and subject to established policies and programs of the United States.

(c) No Chief of United States Diplomatic Mission shall delegate any function conferred upon him by the provisions of this order which directly involves the exercise of direction, coordination, or authority.

Sec. 2. Referral of unresolved matters. The Chief of the United States Diplomatic Mission in each country shall initiate steps to reconcile any divergent views arising in the country concerned with respect to programs under the Act. If agreement cannot be reached the Chief of the United States Diplomatic Mission shall recommend a course of action, and such course of action shall be followed unless a United States representative requests that the issue be referred to higher authority for decision. If such a request is made, the parties concerned shall promptly refer the issue to higher authority for resolution prior to taking action at the country level. The Director for Mutual Security shall assure expeditious decisions on matters so submitted.

Sec. 3. Effect of order on United States representatives. (a) All United States representatives in each country shall be subject to the responsibilities imposed upon the Chief of the United States Diplomatic Mission in such country by section 507 of the Mutual Security Act of 1951 and by this order.

(b) Subject to compliance with the provisions of this order and with the prescribed procedures of their respective agencies, all United States representatives affected by this order (1) shall have direct communication with their respective agencies and with such other parties and in such manner as may be authorized by their respective agencies, (2) shall keep the respective Chiefs of United States Diplomatic Missions and each other fully and currently informed on all matters, including prospective plans, recommendations, and actions, relating to programs under the Act, and (3) shall furnish to the respective Chiefs of United States Diplomatic Missions, upon their request, documents and information concerning the said programs.

Sec. 4. Further coordination procedures. The Director for Mutual Security shall be responsible for assuring the carrying out of the provisions of this order. He is authorized to prescribe, after consultation with the interested Government agencies, any additional procedures he may find necessary to carry out the provisions of this order.

Sec. 5. Prior orders. (a) To the extent that provisions of any prior order are inconsistent with the provisions of this order, the latter shall control, and any such prior provisions are amended accordingly. All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

(b) Nothing in this order shall affect Executive Orders Nos. 10062, 10063, and 10144 of June 6, 1949, June 13, 1949, and July 21, 1950, respectively.

(c) Executive Orders Nos. 9857, 9862, 9864, 9914, 9944, 9960, 10208, and 10259 of May 22, 1947, May 31, 1947, December 26, 1947, April 9, 1948, May 19, 1948, January 25, 1951, and June 27, 1951, respectively, are hereby revoked.

f. The Foreign Service of the United States

Executive Order 12293,¹ February 23, 1981, 46 F.R. 13969; as amended by Executive Order 12363, May 21, 1982, 47 F.R. 22497; Executive Order 12388, October 14, 1982, 47 F.R. 46245; Executive Order 12536, October 9, 1985, 50 F.R. 41477; and by Executive Order 13118, March 31, 1999, 64 F.R. 16595

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071, 22 U.S.C. 3901 *et seq.*), Section 202 of the Revised Statutes (22 U.S.C. 2656), and Section 301 of Title 3 of the United States Code, and in order to provide for the administration of the Foreign Service of the United States, it is hereby ordered as follows:

Section 1. There are hereby delegated to the Secretary of State those functions vested in the President by Sections 205, 401(a), 502(c), 613, and 801 of the Foreign Service Act of 1980, hereinafter referred to as the Act (22 U.S.C. 3925, 3942(a)(1), 3892(c), 4013, and 4041).

Sec. 2. The Secretary of State shall, in accord with Section 205 of the Act (22 U.S.C. 3925), consult with the Secretary of Agriculture, the Secretary of Commerce, the Director of the United States Information Agency,² the Administrator of the United States Agency for International Development,³ the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, in order to ensure compatibility between the Foreign Service personnel system and other government personnel systems.

Sec. 3. The Secretary of State shall make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under Section 827 of the Act (22 U.S.C. 4067) to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System.

Sec. 4. In accord with Section 402 of the Act (22 U.S.C. 3962), there are established the following salary classes with titles for the Senior Foreign Service (SFS), at basic rates of pay equivalent to that established from time to time for the Senior Executive Service (ES) under Section 5382 of Title 5 of the United States Code.

Career Minister

- (a) Basic rate of pay equivalent to ES 6.

¹22 U.S.C. 3901 note.

²Sec. 10(4)(A) of Executive Order 13118 struck out "Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "Administrator of the United States Agency for International Development".

³The reference to the United States Information Agency was substituted in lieu of a reference to the International Communication Agency by sec. 4 of Executive Order 12388.

Minister-Counselor

- (a) Basic rate of pay equivalent to ES 6, or
- (b) Basic rate of pay equivalent to ES 5, or
- (c) Basic rate of pay equivalent to ES 4.

Counselor

- (a) Basic rate of pay equivalent to ES 6, or
- (b) Basic rate of pay equivalent to ES 5, or
- (c) Basic rate of pay equivalent to ES 4, or
- (d) Basic rate of pay equivalent to ES 3, or
- (e) Basic rate of pay equivalent to ES 2, or
- (f) Basic rate of pay equivalent to ES 1.

Sec. 5. There is hereby delegated to the Secretary of State, without further action by the President, the authority vested in the President by Section 2107 of the Act to the extent necessary to implement the provisions of Section 2101 of the Act, relating to pay and benefits pending conversion.

Sec. 6. (a) Pursuant to Section 211 of the Act (22 U.S.C. 3931), there is established in the Department of State the Board of Examiners for the Foreign Service.

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows:

- (1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;
- (2) not less than one shall be a representative appointed by the Director of the Office of Personnel Management; and
- (3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

Sec. 7. For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

Sec. 8. The first seven Sections of this Order shall be effective as of February 15, 1981.

Sec. 9.⁴ (a) Pursuant to Section 210 of the Act there is established in the Department of State the Board of the Foreign Service (22 U.S.C. 3930).

(b) The Board shall be composed of the designated number of representatives of the heads of the following agencies:

(1) Department of State, four members, at least three of whom must be career members of the Senior Foreign Service;

(2) United States Information Agency,⁵ two members, one of whom must be a career member of the Senior Foreign Service;

(3) United States Agency for International Development,⁶ two members, one of whom must be a career member of the Senior Foreign Service;

(4) Department of Agriculture, two members, one of whom must be a career member of the Senior Foreign Service;

(5) Department of Commerce, two members, one of whom must be a career member of the Senior Foreign Service;

(6) Department of Labor, one member;

(7) Office of Personnel Management, one member;

(8) Office of Management and Budget, one member; and,

(9) Equal Employment Opportunity Commission, one member;

(c) The membership of the Board shall be selected from among officials who are knowledgeable in matters concerning the management of the Foreign Service. Except for the career members of the Senior Foreign Service from the Department of Agriculture, the Department of Commerce, the United States Information Agency,⁵ and the United States Agency for International Development,⁶ the members of the Board shall be selected from among those who have the rank of Assistant Secretary or higher or a position of comparable responsibility.

(d) The Secretary of State may from time to time request the heads of other agencies to designate representatives to participate in the functions of the Board on a regular or occasional basis.

(e) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

Sec. 10. Pursuant to section 202(a)(2)(B) and (a)(3)(B) of the Act (22 U.S.C. 3922(a)(2)(B), (a)(3)(B)), it is hereby determined to be necessary, in order to enable the Department of Agriculture and the Department of Commerce to carry out functions which require service abroad, for the respective Secretaries, in consultation with the Office of Personnel Management and the Office of Management and Budget, to be able to utilize the Foreign Service personnel system with respect to personnel of the following:

(a) The Animal and Plant Health Inspection Service of the Department of Agriculture, not to exceed 125 positions, without the

⁴Secs. 9 and 10 were added by Executive Order 12363. Executive Order 12536 revoked sec. 9(e) and redesignated sec. 9(j) as 9(e). Sec. 9(e) previously read as follows:

“(e) The Secretary of State shall designate a Chairman of the Board from among those members who are career members of the Senior Foreign Service.”

⁵The reference to the United States Information Agency was substituted in lieu of a reference to the International Communication Agency by sec. 5 of Executive Order 12388.

⁶Sec. 10(4)(B) of Executive Order 13118 struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “United States Agency for International Development”.

prior approval of the Director of the Office of Personnel Management;

(b) The United States Travel and Tourism Administration, and the International Trade Administration of the Department of Commerce, not to exceed 30 positions without the prior approval of the Director of the Office of Personnel Management, and providing that assignments to such positions be administered consistent with policies of the Foreign Commercial Service established under Executive Order No. 12188.

g. Designation of Certain Officers To Act as Secretary of State

Executive Order 12343; January 27, 1982; 47 F.R. 4225; 5 U.S.C. 3347 note

By the authority vested in me as President of the United States of America by Section 3347 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. During any period when, by reason of absence, disability, or vacancy in office, neither the Secretary of State nor the Deputy Secretary of State, is available to exercise the powers or perform the duties of the Office of the Secretary, an officer from the Department of State who has been appointed by the President, by and with the advice and consent of the Senate, in such order as the Secretary of State may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, then such officers shall act as Secretary in descending order of rank, as established by the listing of their offices in Sections 5314 or 5315 of Title 5 of the United States Code, and at each level of the Executive Schedule in the order in which they shall have taken the oath as such officers.

Sec. 2. The President may at any time, pursuant to law but without regard to the foregoing provisions of this Order, direct that an officer specified by the President shall act as Secretary of State.

Sec. 3. Executive Order No. 10839 is revoked.

h. Interdepartmental Operations of the U.S. Government Overseas

(1) Foreign Intelligence Surveillance Act of 1978

Public Law 95-511 [S. 1566], 92 Stat. 1783, approved October 25, 1978; as amended by Public Law 103-359 [Intelligence Authorization Act for Fiscal Year 1995; H.R. 4299], 108 Stat. 3423, approved October 14, 1994; Public Law 105-272 [Intelligence Authorization Act for Fiscal Year 1999; H.R. 3694], 112 Stat. 2396, approved October 20, 1998; Public Law 106-120 [Intelligence Authorization Act for Fiscal Year 2000; H.R. 1555], 113 Stat. 1606, approved December 3, 1999; and by Public Law 106-567 [Intelligence Authorization Act for Fiscal Year 2001; H.R. 5630], 114 Stat. 2831, approved December 27, 2000

AN ACT To authorize electronic surveillance to obtain foreign intelligence information.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Foreign Intelligence Surveillance Act of 1978”.*¹

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* * * * *

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

- (a) “Foreign power” means—
- (1) a foreign government or any component thereof, whether or not recognized by the United States;
 - (2) a faction of a foreign nation or nations, not substantially composed of United States persons;
 - (3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;
 - (4) a group engaged in international terrorism² or activities in preparation therefor;
 - (5) a foreign-based political organization, not substantially composed of United States persons; or
 - (6) an entity that is directed and controlled by a foreign government or governments.
- (b) “Agent of a foreign power” means—
- (1) any person other than a United States person, who—

¹ 50 U.S.C. 1801 note.

² Note use of the term “terrorism” as defined in sec. 101(c) for purposes of this title. The term “terrorism” appears in the title in sec. 101(a)(4).

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4);

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, or on behalf of a foreign power,³

(D)³ knowingly enters the United States under a false or fraudulent identity for or on behalf of a foreign power or, while in the United States, knowingly assumes a false or fraudulent identity for or on behalf of a foreign power; or

(E)³ knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A),(B), or (C).

(c) "International terrorism" means² activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

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

(C) to effect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to co-

³Sec. 601 of Public Law 106-120 (113 Stat. 1619) struck out "or" at the end of subpara. (C); redesignated subpara. (D) as subpara. (E); and added a new subpara. (D).

- erces or intimidate, or the locale in which their perpetrators operate or seek asylum.
- (d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.
- (e) "Foreign intelligence information" means—
- (1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—
 - (A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;
 - (B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or
 - (C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or
 - (2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—
 - (A) the national defense or the security of the United States; or
 - (B) the conduct of the foreign affairs of the United States.
- (f) "Electronic surveillance" means—
- (1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;
 - (2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;
 - (3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purpose, and if both the sender and all intended recipients are located without the United States; or
 - (4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.
- (g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) “Minimization procedures”, with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102(a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) “United States person” means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) “United States”, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) “Aggrieved person” means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) “Wire communication” means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identify of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102.⁴ (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3);

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 108(a).

(3) The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the

⁴ 50 U.S.C. 1802.

Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 101(h)(4) and 104; or

(B) the certification is necessary to determine the legality of the surveillance under section 106(f).

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

DESIGNATION OF JUDGES

SEC. 103.⁵ (a) The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).

(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together

⁵ 50 U.S.C. 1803.

shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

(d) Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

APPLICATION FOR AN ORDER

SEC. 104.⁶ (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

- (1) the identity of the Federal officer making the application;
- (2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;
- (3) the identity, if known, or a description of the target of the electronic surveillance;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—
 - (A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and
 - (B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;
- (5) a statement of the proposed minimization procedures;
- (6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;
- (7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national secu-

⁶ 50 U.S.C. 1804.

rity or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter, and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

(e)⁷ (1)(A) Upon written request of the Director of the Federal Bureau of Investigation, the Secretary of Defense, the Secretary of State, or the Director of Central Intelligence, the Attorney General shall personally review under subsection (a) an application under that subsection for a target described in section 101(b)(2).

(B) Except when disabled or otherwise unavailable to make a request referred to in subparagraph (A), an official referred to in that subparagraph may not delegate the authority to make a request referred to in that subparagraph.

(C) Each official referred to in subparagraph (A) with authority to make a request under that subparagraph shall take appropriate actions in advance to ensure that delegation of such authority is clearly established in the event such official is disabled or otherwise unavailable to make such request.

(2)(A) If as a result of a request under paragraph (1) the Attorney General determines not to approve an application under the second sentence of subsection (a) for purposes of making the application under this section, the Attorney General shall provide written notice of the determination to the official making the request for the review of the application under that paragraph. Except when disabled or otherwise unavailable to make a determination under the preceding sentence, the Attorney General may not delegate the responsibility to make a determination under that sentence. The Attorney General shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event the Attorney General is disabled or otherwise unavailable to make such determination.

(B) Notice with respect to an application under subparagraph (A) shall set forth the modifications, if any, of the application that are necessary in order for the Attorney General to approve the application under the second sentence of subsection (a) for purposes of making the application under this section.

(C) Upon review of any modifications of an application set forth under subparagraph (B), the official notified of the modifications under this paragraph shall modify the application if such official determines that such modification is warranted. Such official shall supervise the making of any modification under this subparagraph. Except when disabled or otherwise unavailable to supervise the making of any modification under the preceding sentence, such official may not delegate the responsibility to supervise the making of any modification under that preceding sentence. Each such official shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event such official is disabled or otherwise unavailable to supervise the making of such modification.

ISSUANCE OF AN ORDER

SEC. 105.⁸ (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

⁷Sec. 602(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2851) added subsec. (e).

⁸50 U.S.C. 1805.

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b)⁹ In determining whether or not probable cause exists for purposes of an order under subsection (a)(3), a judge may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target.

(c)⁹ An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

⁹Sec. 602(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106/567; 114 Stat. 2581) redesignated former subsecs. (b) through (g) as subsecs. (c) through (h), respectively, and added a new subsec. (b).

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(d)⁹ Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (c)(1),¹⁰ but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(e)⁹ (1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a)(1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 101(a)(5) or (6), or against a foreign power as defined in section 101(a)(4) that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(f)⁹ Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

¹⁰Sec. 602(b)(3) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2852) struck out “subsection (b)(1)” and inserted in lieu thereof “subsection (c)(1)”.

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(g)⁹ Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and:

- (D) *Provided*, That the test may exceed ninety days only with the prior approval of the Attorney General;
- (2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—
- (A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;
- (B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and
- (C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance;
- or
- (3) train intelligence personnel in the use of electronic surveillance equipment, if—
- (A) it is not reasonable to—
- (i) obtain the consent of the persons incidentally subjected to the surveillance;
- (ii) train persons in the course of surveillance otherwise authorized by this title; or
- (iii) train persons in the use of such equipment without engaging in electronic surveillance;
- (B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and
- (C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.
- (h)⁹ Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the certification or application.

USE OF INFORMATION

SEC. 106.¹¹ (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged

¹¹ 50 U.S.C. 1806.

Sec. 604(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) provided the following:

“(b) REPORT ON MECHANISMS FOR DETERMINATIONS OF DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT PURPOSES.—(1) THE ATTORNEY GENERAL SHALL SUBMIT TO THE APPROPRIATE COMMITTEES OF CONGRESS A REPORT ON THE AUTHORITIES AND PROCEDURES UTILIZED BY THE DEPARTMENT OF JUSTICE FOR DETERMINING WHETHER OR NOT TO DISCLOSE INFORMATION ACQUIRED UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 (50 U.S.C. 1801 ET SEQ.) FOR LAW ENFORCEMENT PURPOSES.

“(2) In this subsection, the term ‘appropriate committees of Congress’ means the following:

“(A) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

“(B) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”

character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this Act, the United

States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure or applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

- (1) the fact of the application;
- (2) the period of the surveillance; and
- (3) the fact that during the period information was or not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a fur-

ther ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107.¹² In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceding calendar year—

- (a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and
- (b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108.¹³ (a)(1)¹⁴ On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(2)¹⁴ Each report under the first sentence of paragraph (1) shall include a description of—

- (A) each criminal case in which information acquired under this Act has been passed for law enforcement purposes during the period covered by such report; and
- (B) each criminal case in which information acquired under this Act has been authorized for use at trial during such reporting period.

(b) On or before one year after the effective date of this Act and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this Act. Said reports shall include but not be limited to an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

PENALTIES

SEC. 109.¹⁵ (a) OFFENSE.—A person is guilty of an offense if he intentionally—

¹²50 U.S.C. 1807. Sec. 1(21) of Public Law 106-197 (114 Stat. 246) provided that requirements under sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 to automatically eliminate certain reporting requirements does not apply to secs. 107 and 108 of this Act.

¹³50 U.S.C. 1808. Sec. 1(21) of Public Law 106-197 (114 Stat. 246) provided that requirements under sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 to automatically eliminate certain reporting requirements does not apply to secs. 107 and 108 of this Act.

¹⁴Sec. 604(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) inserted "(1)" after "(a)", and added new para. (2).

¹⁵50 U.S.C. 1809.

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employer of the United States at the time the offense was committed.

SEC. 110.¹⁶ CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 110(a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

SEC. 111.¹⁷

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

TITLE II—CONFORMING AMENDMENTS

* * * * *

TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES¹⁸

DEFINITIONS

SEC. 301.¹⁹ As used in this title:

¹⁶ 50 U.S.C. 1810.

¹⁷ 50 U.S.C. 1811.

¹⁸ Title III was added by sec. 807(b) of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103-359; 108 Stat. 3443).

¹⁹ 50 U.S.C. 1821.

(1) The terms “foreign power”, “agent of a foreign power”, “international terrorism”, “sabotage”, “foreign intelligence information”, “Attorney General”, “United States person”, “United States”, “person”, and “State” shall have the same meanings as in section 101 of this Act, except as specifically provided by this title.

(2) “Aggrieved person” means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

(3) “Foreign Intelligence Surveillance Court” means the court established by section 103(a) of this Act.

(4) “Minimization procedures” with respect to physical search, means—

(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand such foreign intelligence information or assess its importance;

(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(D) notwithstanding subparagraphs (A), (B), and (C), with respect to any physical search approved pursuant to section 302(a), procedures that require that no information, material, or property of a United States person shall be disclosed, disseminated, or used for any purpose or retained for longer than 24 hours unless a court order under section 304 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(5) “Physical search” means any physical intrusion within the United States into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include (A) “electronic surveillance”, as defined in section 101(f) of this Act, or (B) the acquisition by the United States Government of foreign intelligence information from inter-

national or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101(f) of this Act.

AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 302.²⁰ (a)(1) Notwithstanding any other provision of law, the President, acting through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for periods of up to one year if—

(A) the Attorney General certifies in writing under oath that—

(i) the physical search is solely directed at premises, information, material, or property used exclusively by, or under the open and exclusive control of, a foreign power or powers (as defined in section 101(a) (1), (2), or (3));

(ii) there is no substantial likelihood that the physical search will involve the premises, information, material, or property of a United States person; and

(iii) the proposed minimization procedures with respect to such physical search meet the definition of minimization procedures under paragraphs (1) through (4) of section 301(4); and

(B) the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days before their effective date, unless the Attorney General determines that immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) A physical search authorized by this subsection may be conducted only in accordance with the certification and minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 306.

(3) The Attorney General shall immediately transmit under seal to the Foreign Intelligence Surveillance Court a copy of the certification. Such certification shall be maintained under security measures established by the Chief Justice of the United States with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the physical search is made under section 301(4) and section 303; or

(B) the certification is necessary to determine the legality of the physical search under section 305(g).

²⁰ 50 U.S.C. 1822.

(4)(A) With respect to physical searches authorized by this subsection, the Attorney General may direct a specified landlord, custodian, or other specified person to—

(i) furnish all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search; and

(ii) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain.

(B) The Government shall compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other provision of law, a judge of the court to whom application is made may grant an order in accordance with section 304 approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

(c) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge designated under section 103(a) of this Act. If any judge so designated denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for such decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 103(b).

(d) The court of review established under section 103(b) shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(e) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

APPLICATION FOR AN ORDER

SEC. 303.²¹ (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

- (1) the identity of the Federal officer making the application;
- (2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;
- (3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—
 - (A) the target of the physical search is a foreign power or an agent of a foreign power;
 - (B) the premises or property to be searched contains foreign intelligence information; and
 - (C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;
- (5) a statement of the proposed minimization procedures;
- (6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;
- (7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President, by and with the advice and consent of the Senate—
 - (A) that the certifying official deems the information sought to be foreign intelligence information;
 - (B) that the purpose of the search is to obtain foreign intelligence information;
 - (C) that such information cannot reasonably be obtained by normal investigative techniques;
 - (D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and
 - (E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D);
- (8) where the physical search involves a search of the residence of a United States person, the Attorney General shall state what investigative techniques have previously been utilized to obtain the foreign intelligence information concerned

²¹ 50 U.S.C. 1823.

and the degree to which these techniques resulted in acquiring such information; and

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 304.

(d)²² (1)(A) Upon written request of the Director of the Federal Bureau of Investigation, the Secretary of Defense, the Secretary of State, or the Director of Central Intelligence, the Attorney General shall personally review under subsection (a) an application under that subsection for a target described in section 101(b)(2).

(B) Except when disabled or otherwise unavailable to make a request referred to in subparagraph (A), an official referred to in that subparagraph may not delegate the authority to make a request referred to in that subparagraph.

(C) Each official referred to in subparagraph (A) with authority to make a request under that subparagraph shall take appropriate actions in advance to ensure that delegation of such authority is clearly established in the event such official is disabled or otherwise unavailable to make such request.

(2)(A) If as a result of a request under paragraph (1) the Attorney General determines not to approve an application under the second sentence of subsection (a) for purposes of making the application under this section, the Attorney General shall provide written notice of the determination to the official making the request for the review of the application under that paragraph. Except when disabled or otherwise unavailable to make a determination under the preceding sentence, the Attorney General may not delegate the responsibility to make a determination under that sentence. The Attorney General shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event the Attorney General is disabled or otherwise unavailable to make such determination.

(B) Notice with respect to an application under subparagraph (A) shall set forth the modifications, if any, of the application that are necessary in order for the Attorney General to approve the application under the second sentence of subsection (a) for purposes of making the application under this section.

(C) Upon review of any modifications of an application set forth under subparagraph (B), the official notified of the modifications under this paragraph shall modify the application if such official determines that such modification is warranted. Such official shall supervise the making of any modification under this subparagraph. Except when disabled or otherwise unavailable to supervise the making of any modification under the preceding sentence, such official may not delegate the responsibility to supervise the making of

²²Sec. 603(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2852) added subsec. (d).

any modification under that preceding sentence. Each such official shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event such official is disabled or otherwise unavailable to supervise the making of such modification.

ISSUANCE OF AN ORDER

SEC. 304.²³ (a) Upon an application made pursuant to section 303, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power;

(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

(5) the application which has been filed contains all statements and certifications required by section 303, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 303(a)(7)(E) and any other information furnished under section 303(c).

(b)²⁴ In determining whether or not probable cause exists for purposes of an order under subsection (a)(3), a judge may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target.

(c)²⁴ An order approving a physical search under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the physical search;

(B) the nature and location of each of the premises or property to be searched;

(C) the type of information, material, or property to be seized, altered, or reproduced;

(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the author-

²³ 50 U.S.C. 1824.

²⁴ Sec. 603(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) redesignated subsecs. (b) through (e) as subsecs. (c) through (f), respectively, and added a new subsec. (b).

ized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

(E) the period of time during which physical searches are approved; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

(C) that such landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

(d)²⁴ (1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for forty-five days, whichever is less, except that an order under this section shall approve a physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this Act for a physical search targeted against a foreign power, as defined in section 101(a) (5) or (6), or against a foreign power, as defined in section 101(a)(4), that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e)²⁴ (1)(A) Notwithstanding any other provision of this title, whenever the Attorney General reasonably makes the determination specified in subparagraph (B), the Attorney General may authorize the execution of an emergency physical search if—

- (i) a judge having jurisdiction under section 103 is informed by the Attorney General or the Attorney General's designee at the time of such authorization that the decision has been made to execute an emergency search, and
 - (ii) an application in accordance with this title is made to that judge as soon as practicable but not more than 24 hours after the Attorney General authorizes such search.
- (B) The determination referred to in subparagraph (A) is a determination that—
- (i) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and
 - (ii) the factual basis for issuance of an order under this title to approve such a search exists.
- (2) If the Attorney General authorizes an emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.
- (3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—
- (A) the date on which the information sought is obtained;
 - (B) the date on which the application for the order is denied;
- or
- (C) the expiration of 24 hours from the time of authorization by the Attorney General.
- (4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 302.
- (f)²⁴ Applications made and orders granted under this title shall be retained for a period of at least 10 years from the date of the application.

USE OF INFORMATION

SEC. 305.²⁵ (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used

²⁵ 50 U.S.C. 1825.

or disclosed by Federal officers or employees except for lawful purposes.

(b) Where a physical search authorized and conducted pursuant to section 304 involves the residence of a United States person, and, at any time after the search the Attorney General determines there is no national security interest in continuing to maintain the secrecy of the search, the Attorney General shall provide notice to the United States person whose residence was searched of the fact of the search conducted pursuant to this Act and shall identify any property of such person seized, altered, or reproduced during such search.

(c) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(d) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(e) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(f)(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

(A) the information was unlawfully acquired; or

(B) the physical search was not made in conformity with an order of authorization or approval.

(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(g) Whenever a court or other authority is notified pursuant to subsection (d) or (e), or whenever a motion is made pursuant to subsection (f), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

(h) If the United States district court pursuant to subsection (g) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting motions or requests under subsection (h), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

(j)(1) If an emergency execution of a physical search is authorized under section 304(d) and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is in the interests of justice to serve, notice of—

(A) the fact of the application;

(B) the period of the search; and

(C) the fact that during the period information was or was not obtained.

(2) On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or

suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

CONGRESSIONAL OVERSIGHT

SEC. 306.²⁶ On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this title. On a semiannual basis the Attorney General shall also provide to those committees and the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

- (1) the total number of applications made for orders approving physical searches under this title;
- (2) the total number of such orders either granted, modified, or denied; and
- (3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 305(b).

PENALTIES

SEC. 307.²⁷ (a) A person is guilty of an offense if he intentionally—

- (1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or
- (2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

(b) It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 308.²⁸ An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within

²⁶ 50 U.S.C. 1826.

²⁷ 50 U.S.C. 1827.

²⁸ 50 U.S.C. 1828.

the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 307 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

- (1) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;
- (2) punitive damages; and
- (3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

SEC. 309.²⁹ Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES³⁰

DEFINITIONS

SEC. 401.³¹ As used in this title:

- (1) The terms “foreign power”, “agent of a foreign power”, “international terrorism”, “foreign intelligence information”, “Attorney General”, “United States person”, “United States”, “person”, and “State” shall have the same meanings as in section 101 of this Act.
- (2) The terms “pen register” and “trap and trace device” have the meanings given such terms in section 3127 of title 18, United States Code.
- (3) The term “aggrieved person” means any person—
 - (A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or
 - (B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 402.³² (a)(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Inves-

²⁹ 50 U.S.C. 1829.

³⁰ Added by sec. 601 of Public Law 105-272 (112 Stat. 2404).

³¹ 50 U.S.C. 1841.

³² 50 U.S.C. 1842.

tigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(2) The authority under paragraph (1) is in addition to the authority under title I of this Act to conduct the electronic surveillance referred to in that paragraph.

(b) Each application under this section shall be in writing under oath or affirmation to—

(1) a judge of the court established by section 103(a) of this Act; or

(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap and trace device on behalf of a judge of that court.

(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

(2) An order issued under this section—

(A) shall specify—

(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

(II) the number and, if known, physical location of the telephone line; and

(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

(II) the number of the instrument or device; and

(B) shall direct that—

(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

(ii) such provider, landlord, custodian, or other person—

(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and

(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

AUTHORIZATION DURING EMERGENCIES

SEC. 403.³³ (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

(b) A determination under this subsection is a reasonable determination by the Attorney General that—

(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

(A) when the information sought is obtained;

(B) when the application for the order is denied under section 402 of this Act; or

(C) 48 hours after the time of the authorization by the Attorney General.

(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the

³³50 U.S.C. 1843.

use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

AUTHORIZATION DURING TIME OF WAR

SEC. 404.³⁴ Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

USE OF INFORMATION

SEC. 405.³⁵ (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

³⁴ 50 U.S.C. 1844.

³⁵ 50 U.S.C. 1845.

(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

(A) the information was unlawfully acquired; or

(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

CONGRESSIONAL OVERSIGHT

SEC. 406.³⁶ (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

(2) the total number of such orders either granted, modified, or denied.

TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES³⁷

DEFINITIONS

SEC. 501.³⁸ As used in this title:

(1) The terms “foreign power”, “agent of a foreign power”, “foreign intelligence information”, “international terrorism”, and “Attorney General” shall have the same meanings as in section 101 of this Act.

(2) The term “common carrier” means any person or entity transporting people or property by land, rail, water, or air for compensation.

(3) The term “physical storage facility” means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

(4) The term “public accommodation facility” means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

³⁶ 50 U.S.C. 1846.

³⁷ Added by sec. 602 of Public Law 105-272 (112 Stat. 2410).

³⁸ 50 U.S.C. 1861.

(5) The term “vehicle rental facility” means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE
AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 502.³⁹ (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(b) Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 103(a) of this Act; or

(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

(2) shall specify that—

(A) the records concerned are sought for an investigation described in subsection (a); and

(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

³⁹50 U.S.C. 1862.

CONGRESSIONAL OVERSIGHT

SEC. 503.⁴⁰ (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving requests for records under this title; and

(2) the total number of such orders either granted, modified, or denied.

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601.⁴¹ The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the first judge pursuant to section 103 of this Act

⁴⁰50 U.S.C. 1863.

⁴¹50 U.S.C. 1801 note. This section and title were originally enacted as sec. 301 and title III; sec. 807 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103-359; 108 Stat. 3443) redesignated same as sec. 401 and title IV, respectively, and added a new title III. Sec. 601 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272; 112 Stat. 2404) subsequently redesignated this title and section as title VI and sec. 601, respectively, and added new title IV. Sec. 602 of that Act added a new title V.

(2) United States Intelligence Activities

Executive Order 12333, December 4, 1981, 46 F.R. 59941, 50 U.S.C. 401 note ¹

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used

¹ Executive Order 12333 revoked Executive Order 12036 of January 24, 1978 (43 F.R. 3674), as amended, which had addressed U.S. intelligence activities. That Order, in turn, had revoked Executive Order 11905 of February 18, 1976 (41 F.R. 7703), as amended.

to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1

Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 Goals. The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal:

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 The National Security Council.

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 National Foreign Intelligence Advisory Groups.

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 The Intelligence Community. The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

- (a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
- (b) Production and dissemination of intelligence;
- (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;
- (d) Special activities;
- (e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and
- (f) Such other intelligence activities as the President may direct from time to time.

1.5 Director of Central Intelligence. In order to discharge the duties and responsibilities prescribed by law, the Director of

Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into

specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments, and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or re-

programming matters of the National Foreign Intelligence Program.

1.7 Senior Officials of the Intelligence Community. The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 The Central Intelligence Agency. All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 The Department of State. The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 The Department of the Treasury. The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 The Department of Defense. The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to

perform the functions described in sections (a) through (j) above.

1.12 Intelligence Components Utilized by the Secretary of Defense. In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attaché system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

- (8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;
 - (9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;
 - (10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;
 - (11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;
 - (12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and
 - (13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.
- (c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:
- (1) Carrying out consolidated reconnaissance programs for specialized intelligence;
 - (2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and
 - (3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.
- (d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:
- (1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA and such collection within the United States shall be coordinated with the FBI;
 - (2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and
 - (3) Monitoring of the development, procurement and management of tactical intelligence systems and equip-

ment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.* If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 The Department of Energy. The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

PART 2

Conduct of Intelligence Activities

2.1 Need. Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a

vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 Purpose. This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 Collection of Information. Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 Collection Techniques. Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 Attorney General Approval. The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has

determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 Contracting. Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 Consistency With Other Laws. Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States. No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 Human Experimentation. No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's in-

formed consent shall be documented as required by those guidelines.

2.11 Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 Indirect Participation. No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

PART 3

General Provisions

3.1 Congressional Oversight. The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 Implementation. The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 Procedures. Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 Definitions. For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of

a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned

and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 Purpose and Effect. This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 Revocation. Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

(3) President's Foreign Intelligence Advisory Board¹

Executive Order 12863, September 13, 1993, 58 F.R. 48441, 50 U.S.C. 401 note; amended by Executive Order 13070, December 15, 1997, 62 F.R. 66493

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, it is ordered as follows:

PART I. ASSESSMENT OF INTELLIGENCE ACTIVITIES

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Foreign Intelligence Advisory Board (PFIAB). The PFIAB Board shall consist of not more than 16 members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the PFIAB at any one time shall be comprised of members whose term of service does not exceed 2 years. The President shall designate a Chairman and Vice Chairman from among the members. The PFIAB shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

Sec. 1.2. The PFIAB shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities. The PFIAB shall have the authority to review continually the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The PFIAB shall further be authorized to assess the adequacy of management, personnel and organization in the intelligence agencies. The heads of departments and agencies of the Federal Government, to the extent permitted by law, shall provide the PFIAB with access to all information that the PFIAB deems necessary to carry out its responsibilities.

Sec. 1.3. The PFIAB shall report directly to the President and advise him concerning the objectives, conduct, management and coordination of the various activities of the agencies of the Intelligence Community. The PFIAB shall report periodically, but at least semiannually, concerning its findings and appraisals and shall make appropriate recommendations for the improvement and enhancement of the intelligence efforts of the United States.

¹Formerly in Executive Order 12537 (October 28, 1985, 50 F.R. 45083, 50 U.S.C. 401 note; as amended by Executive Order 12624, January 6, 1988, 53 F.R. 489).

Sec. 1.4. The PFIAB shall consider and recommend appropriate action which respect to matters, identified to the PFIAB by the Director of Central Intelligence, the Central Intelligence Agency, or other Government agencies engaged in intelligence or related activities, in which the advice of the PFIAB will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the PFIAB shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other Government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

PART II. OVERSIGHT OF INTELLIGENCE ACTIVITIES

Sec. 2.1.² The Intelligence Oversight Board (IOB)³ is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members designated by the President from among the membership of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman or a member of the IOB is so designated by the President. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the IOB with the concurrence of the Chairman of the PFIAB.

Sec. 2.2. The IOB shall:

(A) prepare for the President reports of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;

(b) forward to the Attorney General reports received concerning intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;

(c) review the internal guidelines of each agency within the Intelligence Community that concern the lawfulness of intelligence activities;

(d) review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) conduct such investigations as the IOB deems necessary to carry out its functions under this order.

Sec. 2.3. The IOB shall, when required by this order, report to the President through the Chairman of the PFIAB. The IOB shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the IOB

² Executive Order 13070 (December 15, 1997; 62 F.R. 66493) amended and restated sec. 2.1. It formerly read as follows:

"The Intelligence Oversight Board (IOB) is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members appointed from among the membership of the PFIAB by the Chairman of the PFIAB. The Chairman of the IOB shall be appointed by the Chairman of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman of the IOB. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the PFIAB."

³ As originally established in Executive Order 12334, December 4, 1981 (50 U.S.C. 401 note; 46 F.R. 59955; as amended by Executive Order 12701, February 14, 1990, 55 F.R. 5953).

shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency and other agencies of the Intelligence Community.

Sec. 2.4. The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

PART III. GENERAL PROVISIONS

Sec. 3.1. Information made available to the PFIAB, or members of the PFIAB acting in their IOB capacity, shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the PFIAB, each member of the PFIAB's staff and each of the PFIAB's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her services with the PFIAB except to the President or to such persons as the President may designate.

Sec. 3.2. Members of the PFIAB shall serve without compensation but may receive transportation expenses and per diem allowance as authorized by law. Staff and consultants to the PFIAB shall receive pay and allowances as authorized by the President.

Sec. 3.3. Executive Order No. 12334 of December 4, 1981, as amended, and Executive Order No. 12537 of October 28, 1985, as amended, are revoked.

(4) Foreign Intelligence Physical Searches

Executive Order 12949, February 9, 1995, 60 F.R. 8169

By the authority vested in me as President by the Constitution and the laws of the United States, including sections 302 and 303 of the Foreign Intelligence Surveillance Act of 1978 ("Act") (50 U.S.C. 1801, *et seq.*), as amended by Public Law 101-359, and in order to provide for the authorization of physical searches for foreign intelligence purposes as set forth in the Act, it is hereby ordered as follows:

Section. 1. Pursuant to section 302(a)(1) of the Act, the Attorney General is authorized to approve physical searches, without a court order, to acquire foreign intelligence information for periods of up to one year, if the Attorney General makes the certifications required by that section.

Sec. 2. Pursuant to section 302(a)(1) of the Act, the Attorney General is authorized to approve applications to the Foreign Intelligence Surveillance Court under section 303 of the Act to obtain orders for physical searches for the purpose of collecting foreign intelligence information.

Sec. 3. Pursuant to section 303(a)(7) of the Act, the following officials, each of whom is employed in the areas of national security or defense, is designated to make the certifications required by section 303(a)(7) of the Act in support of applications to conduct physical searches:

- (a) Secretary of State;
- (b) Secretary of Defense;
- (c) Director of Central Intelligence;
- (d) Director of the Federal Bureau of Investigation;
- (e) Deputy Secretary of State;
- (f) Deputy Secretary of Defense; and
- (g) Deputy Director of Central Intelligence.

None of the above officials, nor anyone officially acting in that capacity, may exercise the authority to make the above certifications, unless that official has been appointed by the President, by and with the advice and consent of the Senate.

i. International Agreements

(1) Compilation and Transmittal of International Agreements

Section 112a and 112b, Title 1, United States Code; as added by Act of September 23, 1950, 64 Stat. 980; and added by Public Law 92-403 [Case-Zablocki Act, S. 596], 86 Stat. 619, approved August 22, 1972; as amended by Public Law 95-45 [Department of State Appropriation Authorization; H.R. 5040] 91 Stat. 221, approved June 15, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-437 [H.R. 4777], 108 Stat. 4581, approved November 2, 1994

§ 112a.¹ United States Treaties and Other International Agreements; contents; admissibility in evidence

(a)² The Secretary of State shall cause to be compiled, edited, indexed, and published, beginning as of January 1, 1950, a compilation entitled “United States Treaties and Other International Agreements,” which shall contain all treaties to which the United States is a party that have been proclaimed during each calendar year, and all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to which any other final formality has been executed, during each calendar year. The said United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

(b)³ The Secretary of State may determine that publication of certain categories of agreements is not required, if the following criteria are met:

¹Title VIII of the Legislative Branch Appropriations Act, 1976 (Public Law 94-59; 89 Stat. 296; 44 USC 1317 note), however, provided the following:

“Hereafter, notwithstanding any other provisions of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) of copies of the Foreign Relations of the United States, the United States Treaties and other International Agreements, the District of Columbia Code and Supplements, and more than one bound set of the United States Code and Supplements shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he receive copies of such documents.”

See also Department of State proposed rule (22 CFR Part 181) for the coordination and reporting of international agreements, Department of State Public Notice 2269 (60 F.R. 54319; October 17, 1995).

²Sec. 138(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), added subsec. designation “(a)”.

³Sec. 138(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), added subsecs. (b) and (c).

The Secretary of State delegated functions authorized under subsection (b) to the Legal Advisor (Department of State Public Notice 2086; sec. 13 of Delegation of Authority No. 214; 59 F.R. 50790).

(1) such agreements are not treaties which have been brought into force for the United States after having received Senate advice and consent pursuant to section 2(2) of Article II of the Constitution of the United States;

(2) the public interest in such agreements is insufficient to justify their publication, because (A) as of the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, the agreements are no longer in force, (B) the agreements do not create private rights or duties, or establish standards intended to govern government action in the treatment of private individuals; (C) in view of the limited or specialized nature of the public interest in such agreements, such interest can adequately be satisfied by an alternative means; or (D) the public disclosure of the text of the agreement would, in the opinion of the President, be prejudicial to the national security of the United States; and

(3) copies of such agreements (other than those in paragraph (2)(D)), including certified copies where necessary for litigation or similar purposes, will be made available by the Department of State upon request.

(c)³ Any determination pursuant to subsection (b) shall be published in the Federal Register.

§ 112b.⁴ United States international agreements; transmission to Congress

(a)⁵ The Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing)⁶ other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter.⁷ However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁸ of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President. Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State

⁴Popularly known as the Case-Zablocki Act.

⁵Sec. 708 of Public Law 95-426 (92 Stat. 993) inserted the subsection designation "(a)" and added subsecs. (b) through (e).

⁶The parenthetical phrase was added by sec. 708 of Public Law 95-426 (92 Stat. 993).

⁷Sec. 139 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1347) required that if the sixty-day period specified in this sentence was not honored, no funds authorized to be appropriated would be available after the end of the sixty-day period to implement any agreement required to be transmitted until the text of such agreement was so transmitted. This restriction on use of funds was made effective sixty days after the enactment of Public Law 100-204 and made applicable during fiscal years 1988 and 1989.

⁸Sec. 1 of Public Law 103-437 (108 Stat. 4581) struck out "Committee on International Relations" and inserted in lieu thereof "Committee Foreign Affairs". Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

the text of such agreement not later than twenty days after such agreement has been signed.⁹

(b)⁵ Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal.

(c)⁵ Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement.

(d)⁵ The Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

(e)⁵ The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section.

⁹This sentence was added to sec. 112b of title I by sec. 5(a) of Public Law 95-45 (91 Stat. 224).

(2) Coordination and Reporting of International Agreements

**Regulations of the Secretary of State, Department Regulation 108.809,
22 CFR Part 181, July 13, 1981, 46 F.R. 35918; amended at 61 F.R.
7071, February 26, 1996**

SUBCHAPTER S—INTERNATIONAL AGREEMENTS

PART 181—COORDINATION AND REPORTING OF INTERNATIONAL AGREEMENTS

Sec.

- 181.1 Purpose and application.
- 181.2 Criteria.
- 181.3 Determinations.
- 181.4 Consultations with the Secretary of State.
- 181.5 Twenty-day rule for concluded agreements.
- 181.6 Documentation and certification.
- 181.7 Transmittal to the Congress.
- 181.8 Publication.¹

Authority: 1 U.S.C. 112a, 112b; and 22 U.S.C. 2651a

§181.1 Purpose and application.

(a) The purpose of this part is to implement the provisions of 1 U.S.C. 112a and 112b, popularly known as the Case-Zablocki Act (hereinafter “the Act”), on the reporting to Congress, coordination with the Secretary of State and publication of international agreements.² This part applies to all agencies of the U.S. Government whose responsibilities include the negotiation and conclusion of international agreements. This part does not, however, constitute a delegation by the Secretary of State of the authority to engage in such activities. Further, it does not affect any additional requirements of law governing the relationship between particular agencies and the Secretary of State in connection with international negotiations and agreements, or any other requirements of law concerning the relationship between particular agencies and the Congress. The term “agency” as used in this part means each authority of the United States Government, whether or not it is within or subject to review by another agency.

(b) Pursuant to the key legal requirements of the Act—full and timely disclosure to the Congress of all concluded agreements and consultation by agencies with the Secretary of State with respect to proposed agreements—every agency of the Government is required to comply with each of the provisions set out in this part in implementation of the Act. Nevertheless, this part is intended as

¹ Sec. 181.8 was added at 61 F.R. 7071, February 16, 1996.

² The first sentence of sec. 181.1 was amended at 61 F.R. 7071, February 16, 1996. It formerly read as follows: “The purpose of this part is to implement the provisions of 1 U.S.C. 112b, popularly known as the Case-Zablocki Act (hereinafter referred to as the ‘Act’), on the reporting to Congress and coordination with the Secretary of State of international agreements of the United States.”

a framework of measures and procedures which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this part will not affect the legal validity, under United States law or under international law, of agreements concluded, will not give rise to a cause of action, and will not affect any public or private rights established by such agreements.

§181.2 Criteria.

(a) *General.* The following criteria are to be applied in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Act, as well as within the meaning of 1 U.S.C. 112a, requiring the publication of international agreements. Each of the criteria except those in paragraph (a)(5) of this section must be met in order for any given undertaking of the United States to constitute an international agreement.

(1) *Identity and intention of the parties.* A party to an international agreement must be a state, a state agency, or an intergovernmental organization. The parties must intend their undertaking to be legally binding, and not merely of political or personal effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example of the latter is the Final Act of the Helsinki Conference on Cooperation and Security in Europe. In addition, the parties must intend their undertaking to be governed by international law, although this intent need not be manifested by a third-party dispute settlement mechanism or any express reference to international law. In the absence of any provision in the arrangement with respect to governing law, it will be presumed to be governed by international law. This presumption may be overcome by clear evidence, in the negotiating history of the agreement or otherwise, that the parties intended the arrangement to be governed by another legal system. Arrangements governed solely by the law of the United States, or one of the states or jurisdictions thereof, or by the law of any foreign state, are not international agreements for these purposes. For example, a foreign military sales loan agreement governed in its entirety by U.S. law is not an international agreement.

(2) *Significance of the arrangement.* Minor or trivial undertakings, even if couched in legal language and form, are not considered international agreements within the meaning of the Act or of 1 U.S.C. 112a. In deciding what level of significance must be reached before a particular arrangement becomes an international agreement, the entire context of the transaction and the expectations and intent of the parties must be taken into account. It is often a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to exchange all maps of a particular region to be produced over a period of years may be an international agreement. It remains a matter of judgment based on all of the circumstances of the transaction. Determinations are made pursuant to §181.3. Examples of arrangements that may constitute international agreements are agreements that: (a) are of political significance; (b) involve sub-

stantial grants of funds or loans by the United States or credits payable to the United States; (c) constitute a substantial commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations; (d) involve continuing and/or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment, or the pooling of data. However, individual research grants and contracts do not ordinarily constitute international agreements.

(3) *Specificity, including objective criteria for determining enforceability.* International agreements require precision and specificity in the language setting forth the undertakings of the parties. Undertakings couched in vague or very general terms containing no objective criteria for determining enforceability or performance are not normally international agreements. Most frequently such terms reflect an intent not to be bound. For example, a promise to “help develop a more viable world economic system” lacks the specificity essential to constitute a legally binding international agreement. However, the intent of the parties is the key factor. Undertakings as general as those of, for example, Articles 55 and 56 of the United Nations Charter have been held to create internationally binding obligations intended as such by the parties.

(4) *Necessity for two or more parties.* While unilateral commitments on occasion may be legally binding, they do not constitute international agreements. For example, a statement by the President promising to send money to Country Y to assist earthquake victims would not be an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of international agreements. Care should be taken to examine whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Moreover, “consideration,” as that term is used in domestic contract law, is not required for international agreements.

(5) *Form.* Form as such is not normally an important factor, but it does deserve consideration. Documents which do not follow the customary form for international agreements, as to matters such as style, final clauses, signatures, or entry into force dates, may or may not be international agreements. Failure to use the customary form may constitute evidence of a lack of intent to be legally bound by the arrangement. If, however, the general content and context reveal an intention to enter into a legally binding relationship, a departure from customary form will not preclude the arrangement from being an international agreement. Moreover, the title of the agreement will not be determinative. Decisions will be made on the basis of the substance of the arrangement, rather than on its denomination as an international agreement, a memorandum of understanding, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, or any other name.

(b) *Agency-level agreements.* Agency-level agreements are international agreements within the meaning of the Act and of 1 U.S.C. 112a if they satisfy the criteria discussed in paragraph (a) of this section. The fact that an agreement is concluded by and on behalf of a particular agency of the United States Government, rather

than the United States Government, does not mean that the agreement is not an international agreement. Determinations are made on the basis of the substance of the agency-level agreement in question.

(c) *Implementing agreements.* An implementing agreement, if it satisfies the criteria discussed in paragraph (a) of this section, may be an international agreement, depending upon how precisely it is anticipated and identified in the underlying agreement it is designed to implement. If the terms of the implementing agreement are closely anticipated and identified in the underlying agreement, only the underlying agreement is considered an international agreement. For example, the underlying agreement might call for the sale by the United States of 1000 tractors, and a subsequent implementing agreement might require a first installment on this obligation by the sale of 100 tractors of the brand X variety. In that case, the implementing agreement is sufficiently identified in the underlying agreement, and would not itself be considered an international agreement within the meaning of the Act or of 1 U.S.C. 112a. Project annexes and other documents which provide technical content for an umbrella agreement are not normally treated as international agreements. However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria of paragraph (a) of this section, the implementing agreement might well be an international agreement. For example, if the underlying agreement calls for the conclusion of “agreements for agricultural assistance,” but without further specificity, then a particular agricultural assistance agreement subsequently concluded in “implementation” of that obligation, provided it meets the criteria discussed in paragraph (a) of this section, would constitute an international agreement independent of the underlying agreement.

(d) *Extension and modifications of agreements.* If an undertaking constitutes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, then a subsequent extension or modification of such an agreement would itself constitute an international agreement within the meaning of the Act of 1 U.S.C. 112a.

(e) *Oral agreements.* Any oral arrangement that meets the criteria discussed in paragraphs (a)(1)–(4) of this section is an international agreement and, pursuant to section (a) of the Act, must be reduced to writing by the agency that concluded the oral arrangement. In such written form, the arrangement is subject to all the requirements of the Act and of this part. Whenever a question arises whether an oral arrangement constitutes an international agreement, the arrangement shall be reduced to writing and the decision made in accordance with §181.3.

§181.3 Determinations.

(a) Whether any undertaking, document, or set of documents constitutes or would constitute an international agreement within the meaning of the Act or of 1 U.S.C. 112a shall be determined by the Legal Adviser of the Department of State, a Deputy Legal Adviser, or in most cases the Assistant Legal Adviser for Treaty Affairs. Such determinations shall be made either on a case-by-case basis, or on periodic consultation, as appropriate.

(b) Agencies whose responsibilities include the negotiation and conclusion of international agreements are responsible for transmitting to the Assistant Legal Adviser for Treaty Affairs, for decision pursuant to paragraph (a) of this section, the texts of any document or set of documents that might constitute an international agreement. The transmittal shall be made prior to or simultaneously with the request for consultations with the Secretary of State required by subsection (c) of the Act and §181.4 of this part.

(c) Agencies whose responsibilities include the negotiation and conclusion of large numbers of agency-level and implementing arrangements at overseas posts, only a small number of which might constitute international agreements within the meaning of the Act and of 1 U.S.C. 112a, are required to transmit prior to their entry into force only the texts of the more important of such arrangements for decision pursuant to paragraph (a) of this section. The texts of all arrangements that might constitute international agreements shall, however, be transmitted to the Office of the Assistant Legal Adviser for Treaty Affairs as soon as possible, and in no event to arrive at that office later than 20 days after their signing for decision pursuant to paragraph (a) of this section.

(d) Agencies to which paragraphs (b) and (c) of this section apply shall consult periodically with the Assistant Legal Adviser for Treaty Affairs in order to determine which categories of arrangements for which they are responsible are likely to be international agreements within the meaning of the Act and of 1 U.S.C. 112a.

§181.4 Consultations with the Secretary of State.

(a) The Secretary of State is responsible, on behalf of the President, for ensuring that all proposed international agreements of the United States are fully consistent with United States foreign policy objectives. Except as provided in §181.3(c) of this part, no agency of the U.S. Government may conclude an international agreement, whether entered into in the name of the U.S. Government or in the name of the agency, without prior consultation with the Secretary of State or his designee.

(b) The Secretary of State (or his designee) gives his approval for any proposed agreement negotiated pursuant to his authorization, and his opinion on any proposed agreement negotiated by an agency which has separate authority to negotiate such agreement. The approval or opinion of the Secretary of State or his designee with respect to any proposed international agreement will be given pursuant to Department of State procedures set out in Volume 11, *Foreign Affairs Manual*, Chapter 700 (Circular 175 procedure). Officers of the Department of State shall be responsible for the preparation of all documents required by the Circular 175 procedure.

(c) Pursuant to the Circular 175 procedure, the approval of, or an opinion on a proposed international agreement to be concluded in the name of the U.S. Government will be given either by the Secretary of State or his designee. The approval of, or opinion on a proposed international agreement to be concluded in the name of a particular agency of the U.S. Government will be given by the interested assistant secretary or secretaries of State, or their designees, unless such official(s) judge that consultation with the Secretary, Deputy Secretary, or an Under Secretary is necessary. The

approval of, or opinion on a proposed international agreement will normally be given within 20 days of receipt of the request for consultation and of the information as required by § 181.4(d)–(g).

(d) Any agency wishing to conclude an international agreement shall transmit to the interested bureau or office in the Department of State, or to the Office of the Legal Adviser, for consultation pursuant to this section, a draft text or summary of the proposed agreement, a precise citation of the Constitutional, statutory, or treaty authority for such agreement, and other background information as requested by the Department of State. The transmittal of the draft text or summary and citation of legal authority shall be made before negotiations are undertaken, or if that is not feasible, as early as possible in the negotiating process. In any event such transmittals must be made no later than 50 days prior to the anticipated date for concluding the proposed agreement. If unusual circumstances prevent this 50-day requirement from being met, the concerned agency shall use its best efforts to effect such transmittal as early as possible prior to the anticipated date for concluding the proposed agreement.

(e) If a proposed agreement embodies a commitment to furnish funds, goods, or services that are beyond or in addition to those authorized in an approved budget, the agency proposing the agreement shall state what arrangements have been planned or carried out concerning consultation with the Office of Management and Budget for such commitment. The Department of State should receive confirmation that the relevant budget approved by the President provides or requests funds adequate to fulfill the proposed commitment, or that the President has made a determination to seek the required funds.

(f) Consultation may encompass a specific class of agreements rather than a particular agreement where a series of agreements of the same general type is contemplated; that is, where a number of agreements are to be negotiated according to a more or less standard formula, such as, for example, Public Law 480 Agricultural Commodities Agreements. Any agency wishing to conclude a particular agreement within a specific class of agreements about which consultations have previously been held pursuant to this section shall transmit a draft text of the proposed agreement to the Office of the Legal Adviser as early as possible but in no event later than 20 days prior to the anticipated date for concluding the agreement.

(g) The consultation requirement shall be deemed to be satisfied with respect to proposed international agreements of the United States about which the Secretary of State (or his designee) has been consulted in his capacity as a member of an interagency committee or council established for the purpose of approving such proposed agreements. Designees of the Secretary of State serving on any such interagency committee or council are to provide as soon as possible to the interested offices or bureaus of the Department of State and to the Office of the Legal Adviser copies of draft texts or summaries of such proposed agreements and other background information as requested.

(h) Before an agreement containing a foreign language text may be signed or otherwise concluded, a signed memorandum must be

obtained from a responsible language officer of the Department of State or of the U.S. Government agency concerned certifying that the foreign language text and the English language text are in conformity with each other and that both texts have the same meaning in all substantive respects. The signed memorandum is to be made available to the Department of State upon request.

§ 181.5 Twenty-day rule for concluded agreements.

(a) Any agency, including the Department of State, that concludes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, whether entered into in the name of the U.S. Government or in the name of the agency, must transmit the text of the concluded agreement to the office of the Assistant Legal Adviser for Treaty Affairs as soon as possible and in no event to arrive at that office later than 20 days after the agreement has been signed. The 20-day limit, which is required by the Act, is essential for purposes of permitting the Department of State to meet its obligation under the Act to transmit concluded agreements to the Congress no later than 60 days after their entry into force.

(b) In any case of transmittal after the 20-day limit, the agency or Department of State office concerned may be asked to provide to the Assistant Legal Adviser for Treaty Affairs a statement describing the reasons for the late transmittal. Any such statements will be used, as necessary, in the preparation of the annual report on late transmittals, to be signed by the President and transmitted to the Congress, as required by subsection (b) of the Act.

§ 181.6 Documentation and certification.

(a) Transmittals of concluded agreements to the Assistant Legal Adviser for Treaty Affairs pursuant to § 181.5 must include the signed or initialed original texts, together with all accompanying papers, such as agreed minutes, exchanges of notes, or side letters. The texts transmitted must be accurate, legible, and complete, and must include the texts of all languages in which the agreement was signed or initiated. Names and identities of the individuals signing or initialing the agreements, for the foreign government as well as for the United States, must, unless clearly evident in the texts transmitted, be separately provided.

(b) Agreements from overseas posts should be transmitted to the Department of State by priority airgram, marked for the attention of the Assistant Legal Adviser for Treaty Affairs, with the following notation below the enclosure line: FAIM: Please send attached original agreement to L/T on arrival.

(c) Where the original texts of concluded agreements are not available, certified copies must be transmitted in the same manner as original texts. A certified copy must be an exact copy of the signed original.

(d) When an exchange of diplomatic notes between the United States and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the United States to the foreign government, and the signed original of the note from the foreign government, must be transmitted. If, in conjunction with the agreement signed, other

notes related thereto are exchanged (either at the same time, beforehand, or subsequently), properly certified copies of the notes from the United States to the foreign government must be transmitted with the signed originals of the notes from the foreign government.

(e) Copies may be certified either by a certification on the document itself, or by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or stamped, that the document is a true copy of the original signed or initialed by (insert full name of signing officer), and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed by (full name) and it is signed by the certifying officer.

§ 181.7 Transmittal to the Congress.

(a) International agreements other than treaties shall be transmitted by the Assistant Legal Adviser for Treaty Affairs to the President of the Senate and the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter.

(b) Classified agreements shall be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.³

(c) The Assistant Legal Adviser for Treaty Affairs shall also transmit to the President of the Senate and to the Speaker of the House of Representatives background information to accompany each agreement reported under the Act. Background statements, while not expressly required by the Act, have been requested by the Congress and have become an integral part of the reporting requirement. Each background statement shall include information explaining the agreement, the negotiations, the effect of the agreement, and a precise citation of legal authority. At the request of the Assistant Legal Adviser for Treaty Affairs, each background statement is to be prepared in time for transmittal with the agreement it accompanies by the office most closely concerned with the agreement. Background statements for classified agreements are to be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.³

(d) Pursuant to Section 12 of the Taiwan Relations Act (22 U.S.C. 3311), any agreement entered into between the American Institute in Taiwan and the governing authorities on Taiwan, or any agreement entered into between the Institute and an agency of the United States Government, shall be transmitted by the Assistant Secretary of State for Congressional Relations to the President of the Senate and to the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter. Classified agreements entered into by the Institute shall be transmitted by the As-

³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

sistant Secretary for Congressional Relations to the Senate Committee on Foreign Affairs.⁴

§ 181.8 Publication.⁵

(a) The following categories of international agreements will not be published in United States Treaties and Other International Agreements:

(1) Bilateral agreements for the rescheduling of intergovernmental debt payments;

(2) Bilateral textile agreements concerning the importation of products containing specified textile fibers done under the Agricultural Act of 1956, as amended;

(3) Bilateral agreements between postal administrations governing technical arrangements;

(4) Bilateral agreements that apply to specified military exercises;

(5) Bilateral military personnel exchange agreements;

(6) Bilateral judicial assistance agreements that apply only to specified civil or criminal investigations or prosecutions;

(7) Bilateral mapping agreements;

(8) Tariff and other schedules under the General Agreement on Tariffs and Trade and under the Agreement of the World Trade Organization;

(9) Agreements that have been given a national security classification pursuant to Executive Order No. 12958 or its successors; and

(b) Agreements on the subjects listed in paragraphs (a) (1) through (9) of this section that had not been published as of February 26, 1996.

(c) Any international agreements in the possession of the Department of State, other than those in paragraph (a)(9) of this section, but not published will be made available upon request by the Department of State.

⁴ In original. Should read Senate Committee on Foreign Relations.

⁵ Sec. 181.8 was added at 61 F.R. 7071, February 16, 1996.

(3) Implementation of Human Rights Treaties

Executive Order 13107, December 10, 1998, 63 F.R. 68991

By the authority vested in me as President by the Constitution and the laws of the United States of America, and bearing in mind the obligations of the United States pursuant to the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), and other relevant treaties concerned with the protection and promotion of human rights to which the United States is now or may become a party in the future, it is hereby ordered as follows:

Section 1. *Implementation of Human Rights Obligations.* (a) It shall be the policy and practice of the Government of the United States, being committed to the protection and promotion of human rights and fundamental freedoms, fully to respect and implement its obligations under the international human rights treaties to which it is a party, including the ICCPR, the CAT, and the CERD.

(b) It shall also be the policy and practice of the Government of the United States to promote respect for international human rights, both in our relationships with all other countries and by working with and strengthening the various international mechanisms for the promotion of human rights, including, inter alia, those of the United Nations, the International Labor Organization, and the Organization of American States.

Sec. 2. *Responsibility of Executive Departments and Agencies.* (a) All executive departments and agencies (as defined in 5 U.S.C. 101–105, including boards and commissions, and hereinafter referred to collectively as “agency” or “agencies”) shall maintain a current awareness of United States international human rights obligations that are relevant to their functions and shall perform such functions so as to respect and implement those obligations fully. The head of each agency shall designate a single contact officer who will be responsible for overall coordination of the implementation of this order. Under this order, all such agencies shall retain their established institutional roles in the implementation, interpretation, and enforcement of Federal law and policy.

(b) The heads of agencies shall have lead responsibility, in coordination with other appropriate agencies, for questions concerning implementation of human rights obligations that fall within their respective operating and program responsibilities and authorities or, to the extent that matters do not fall within the operating and program responsibilities and authorities of any agency, that most closely relate to their general areas of concern.

Sec. 3. *Human Rights Inquiries and Complaints.* Each agency shall take lead responsibility, in coordination with other appropriate agencies, for responding to inquiries, requests for informa-

tion, and complaints about violations of human rights obligations that fall within its areas of responsibility or, if the matter does not fall within its areas of responsibility, referring it to the appropriate agency for response.

Sec. 4. *Interagency Working Group on Human Rights Treaties.*

(a) There is hereby established an Interagency Working Group on Human Rights Treaties for the purpose of providing guidance, oversight, and coordination with respect to questions concerning the adherence to and implementation of human rights obligations and related matters.

(b) The designee of the Assistant to the President for National Security Affairs shall chair the Interagency Working Group, which shall consist of appropriate policy and legal representatives at the Assistant Secretary level from the Department of State, the Department of Justice, the Department of Labor, the Department of Defense, the Joint Chiefs of Staff, and other agencies as the chair deems appropriate. The principal members may designate alternates to attend meetings in their stead.

(c) The principal functions of the Interagency Working Group shall include:

(i) coordinating the interagency review of any significant issues concerning the implementation of this order and analysis and recommendations in connection with pursuing the ratification of human rights treaties, as such questions may from time to time arise;

(ii) coordinating the preparation of reports that are to be submitted by the United States in fulfillment of treaty obligations;

(iii) coordinating the responses of the United States Government to complaints against it concerning alleged human rights violations submitted to the United Nations, the Organization of American States, and other international organizations;

(iv) developing effective mechanisms to ensure that legislation proposed by the Administration is reviewed for conformity with international human rights obligations and that these obligations are taken into account in reviewing legislation under consideration by the Congress as well;

(v) developing recommended proposals and mechanisms for improving the monitoring of the actions by the various States, Commonwealths, and territories of the United States and, where appropriate, of Native Americans and Federally recognized Indian tribes, including the review of State, Commonwealth, and territorial laws for their conformity with relevant treaties, the provision of relevant information for reports and other monitoring purposes, and the promotion of effective remedial mechanisms;

(vi) developing plans for public outreach and education concerning the provisions of the ICCPR, CAT, CERD, and other relevant treaties, and human rights-related provisions of domestic law;

(vii) coordinating and directing an annual review of United States reservations, declarations, and understandings to human rights treaties, and matters as to which there have been nontrivial complaints or allegations of inconsistency with

or breach of international human rights obligations, in order to determine whether there should be consideration of any modification of relevant reservations, declarations, and understandings to human rights treaties, or United States practices or laws. The results and recommendations of this review shall be reviewed by the head of each participating agency;

(viii) making such other recommendations as it shall deem appropriate to the President, through the Assistant to the President for National Security Affairs, concerning United States adherence to or implementation of human rights treaties and related matters; and

(ix) coordinating such other significant tasks in connection with human rights treaties or international human rights institutions, including the Inter-American Commission on Human Rights and the Special Rapporteurs and complaints procedures established by the United Nations Human Rights Commission.

(d) The work of the Interagency Working Group shall not supplant the work of other interagency entities, including the President's Committee on the International Labor Organization, that address international human rights issues.

Sec. 5. Cooperation Among Executive Departments and Agencies. All agencies shall cooperate in carrying out the provisions of this order. The Interagency Working Group shall facilitate such cooperative measures.

Sec. 6. Judicial Review, Scope, and Administration. (a) Nothing in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order does not supersede Federal statutes and does not impose any justiciable obligations on the executive branch.

(c) The term "treaty obligations" shall mean treaty obligations as approved by the Senate pursuant to Article II, section 2, clause 2 of the United States Constitution.

(d) To the maximum extent practicable and subject to the availability of appropriations, agencies shall carry out the provisions of this order.

**(4) Delegating to the Secretary of State Certain Functions
With Respect to the Negotiation of International Agree-
ments Relating to the Enhancement of the Environment**

Executive Order 11742; October 23, 1973; 38 F.R. 29457; 33 U.S.C. 1251 note

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States, I hereby authorize and empower the Secretary of State, in coordination with the Council on Environmental Quality, the Environmental Protection Agency, and other appropriate Federal agencies, to perform, without the approval, ratification, or other action of the President, the functions vested in the President by section 7 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 898) with respect to international agreements relating to the enhancement of the environment.

j. Textile Trade Agreements

Executive Order 11651, March 3, 1972, 37 F.R. 4699, 7 U.S.C. 1854 note; as amended by Executive Order 11951, January 6, 1977, 42 F.R. 1453; and by Executive Order 12188, January 2, 1980, 45 F.R. 989

By virtue of the authority vested in me by Section 204 of the Agricultural Act of 1956 (76 Stat. 104), as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1. (a) The Committee for the Implementation of Textile Agreements (hereinafter referred to as the Committee), consisting of representatives of the Departments of State, the Treasury, Commerce and Labor, with the representative of the Department of Commerce as Chairman, is hereby established to supervise the implementation of all textile trade agreements. It shall be located for administrative purposes in the Department of Commerce. The United States Trade Representative, or his designee, also shall be a member of the Committee.¹

(b) Except as provided in subsection (c) of this section, the Chairman of the Committee, after notice to the representatives of the other member agencies, shall take such actions or shall recommend that appropriate officials or agencies of the United States take such actions as may be necessary to implement each such textile trade agreement: *Provided, however,* That if a majority of the voting members of the Committee have objected to such action within ten days of receipt of notice from the Chairman, such action shall not be taken except as may otherwise be authorized.

(c) To the extent authorized by the President and by such officials as the President may from time to time designate, the Committee shall take appropriate actions concerning textiles and textile products under Section 204 of the Agricultural Act of 1956, as amended, and Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973,² and with respect to any other matter affecting textile trade policy.

Sec. 2. (a) The Commissioner of Customs shall take such actions as the Committee, acting through its Chairman, shall recommend to carry out all agreements and arrangements entered into by the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended, with respect to entry, or withdrawal from warehouse, for consumption in the United States of textiles and textile products.

¹This sentence was amended and restated by sec. 1-105(c) of Executive Order 12188, January 2, 1980. The sentence formerly provided that the President's Special Representative for Trade Negotiations would be a nonvoting member of the Committee.

²Executive Order 11951 struck out the words "Article 3 and 6 of the Long Term Agreement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, as extended," and substituted the words to this point beginning with "Articles 3 and 8".

(b) Under instructions approved by the Committee, the Secretary of State shall designate the Chairman of the United States delegation to all negotiations and consultations with foreign governments undertaken with respect to the implementation of textile trade agreements pursuant to this Order. The Secretary of State shall make such representations to foreign governments, including the presentation of diplomatic notes and other communications, as may be necessary to carry out this Order.

k. United States Institute of Peace Act

Partial text of Public Law 98-525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2649, approved October 19, 1984; as amended by Public Law 99-498 [Higher Education Amendments of 1986, S. 1965], 100 Stat. 1268, approved October 17, 1986; Public Law 100-50 [Higher Education Technical Amendments Act of 1987, H.R. 1846], 101 Stat. 335, approved June 3, 1987; Public Law 100-569 [Library Services and Construction and United States Institute of Peace Reauthorization; National Geography Studies Centers; H.R. 4416], 102 Stat. 2862, approved October 31, 1988; Public Law 101-520 [Legislative Branch Appropriations Act, 1991; H.R. 5399], 104 Stat. 2254, approved November 5, 1990; Public Law 102-325, as amended [Higher Education Amendments of 1992, S. 1150], 106 Stat. 448, approved July 23, 1992; Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; and by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

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

SHORT TITLE: TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the “Department of Defense Authorization Act, 1985”.

* * * * *

TITLE XVII—UNITED STATES INSTITUTE OF PEACE

SHORT TITLE

SEC. 1701. This title may be cited as the “United States Institute of Peace Act”.

DECLARATION OF FINDINGS AND PURPOSES

SEC. 1702.¹ (a) The Congress finds and declares that—

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted

¹ 22 U.S.C. 4601.

from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and people have been resolved constructively and with cost efficiency at the international, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this title to establish an independent, non-profit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

DEFINITIONS

SEC. 1703.² As used in this title, the term—

(1) "Institute" means the United States Institute of Peace established by this title; and

² 22 U.S.C. 4602.

(2) “Board” means the Board of Directors of the Institute.

ESTABLISHMENT OF THE INSTITUTE

SEC. 1704.³ (a) There is hereby established the United States Institute of Peace.

(b) The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

(c) As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this title. The Institute may designate such legal entity as the “Endowment of the United States Institute for Peace”.

(d) The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e)(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms “United States Institute of Peace”, “Jennings Randolph Program for International Peace”, “Spark M. Matsunaga Medal of Peace”,⁴ and “Endowment of the United States Institute of Peace” and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

(2) Notwithstanding any other provision of this title, the Institute may use “United States” or “U.S.” or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

POWERS AND DUTIES

SEC. 1705.⁵ (a) The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this title, except for section 5(o) of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005(o)).

(b) The Institute, acting through the Board, may—

(1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

³ 22 U.S.C. 4603.

⁴ Sec. 319(b) of Public Law 101-520 (104 Stat. 2285) inserted “Spark M. Matsunaga Medal of Peace”.

⁵ 22 U.S.C. 4604.

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this title;

(3)⁶ establish a Jeannette Rankin Research Program on Peace to conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;^{7, 8}

(9)⁷ secure directly, upon request of the president of the Institute to the head of any Federal department or agency and in accordance with section 552 of title 5, United States Code (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this title if

⁶Sec. 25 of the Higher Education Technical Amendments Act (Public Law 100-50; 101 Stat. 363) inserted "establish a Jeannette Rankin Research Program on Peace to" at sec. 1703, par. (3).

Sec. 6272 of Public Law 100-418 (102 Stat. 1523) amended sec. 25 of Public Law 100-50 to insert this language in sec. 1705(b)(3).

⁷Sec. 319(a)(1) of Public Law 101-520 (104 Stat. 2284) inserted "and" at the end of par. (8) (see next note), struck out para. (9), and redesignated para. (10) as (9). Paragraph (9) formerly read as follows:

"(9) recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and".

⁸Sec. 1554(b) of Public Law 102-325 (106 Stat. 839) struck out "and" at the end of par. (8), struck the period at the end of par. (9) and inserted in lieu thereof "; and"; and added a new par. (10).

such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State; and⁸

(10)⁸ establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as “Spark M. Matsunaga Scholars”.

(c)⁹ (1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society’s knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed \$25,000 for any recipient.

(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).

(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives¹⁰ about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance.

⁸Sec. 319(a)(3) of Public Law 101-520 (104 Stat. 2284) added a new subsec. (c).

¹⁰Sec. 1(a)(3) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Education and Labor of the House of Representatives shall be treated as referring to the Committee on Economic and Educational Opportunities of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(d)¹¹ The Institute may undertake extension and outreach activities under this title by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions (including the American Federation of Labor—the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this title.

(e)¹¹ The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials.

(f)¹¹ The Institute may enter into personal service and other¹² contracts for the proper operation of the Institute.

(g)¹¹ The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(h)¹¹ (1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels.

(2)¹³ The Institute and the legal entity described in section 1704(c) may not accept any gift, contribution, or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other

¹¹ Sec. 319(a)(2) of Public Law 101-520 (104 Stat. 2284) redesignated subsecs. (c) through (n) as (d) through (o), respectively.

¹² Sec. 931(1)(A) of Public Law 105-244 (112 Stat. 1834) inserted "personal service and other" after "may enter into".

¹³ Sec. 1554(c)(1) of Public Law 102-325 (106 Stat. 839) amended and restated par. (2).

legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(3) Notwithstanding any other provisions of this title, the Institute and the legal entity described in section 1704(c) may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual,¹⁴ except such Institute or legal entity may accept such a gift or contribution to—

(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 1704(c); or

(B) provide program-related hospitality, including such hospitality connected with the presentation of the Spark M. Matsunaga Medal of Peace.

(i)¹¹ The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(j)¹¹ The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(k)¹¹ The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(l)¹¹ The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(m)¹¹ The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this title.

(n)¹¹ The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(o)¹¹ The Institute may obtain administrative support services from the Administrator of General Services and use all sources of supply and services of the General Services Administration¹⁵ on a reimbursable basis.

BOARD OF DIRECTORS

SEC. 1706.¹⁶ (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

¹⁴ Sec. 1554(c)(2) of Public Law 102-325 (106 Stat. 840) struck out "individual." and inserted text from "individual," through subpar. (B).

¹⁵ Sec. 931(1)(B) of Public Law 105-244 (112 Stat. 1834) inserted "and use all sources of supply and services of the General Services Administration" after "Services".

¹⁶ 22 U.S.C. 4605.

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3)¹⁷ The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(5) Twelve¹⁸ individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d)(1) Each individual appointed to the Board under subsection (b)(5) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(5).

(e)(1) Members of the Board appointed under subsection (b)(5) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(5) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(5) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(5) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

(4) An individual appointed as a member of the Board under subsection (b)(5) may not be appointed to more than two terms on the Board.

(f) A member of the Board appointed under subsection (b)(5) may be removed by the President—

¹⁷Sec. 1225(c)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out para. (3) and redesignated paras. (4) and (5) as paras. (3) and (4), respectively. Para. (3) had read as follows:

“(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).”

¹⁸Sec. 1225(c)(1)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out “Eleven” and inserted in lieu thereof “Twelve”.

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties.

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives¹⁰ and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

(g) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter the Board shall elect a Chairman every three years from among the directors appointed by the President under subsection (b)(5) and may elect a Vice Chairman if so provided by the Institute's by-laws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from public disclosure pursuant to subsection (c) of section 552b of title 5, United States Code.

(i) A director appointed by the President under subsection (b)(5) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day dur-

ing which the director is engaged in the performance of duties as a member of the Board.

(j) While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) of title 5, United States Code.

OFFICERS AND EMPLOYEES

SEC. 1707.¹⁹ (a) The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5, United States Code.

(b) Subject to the provisions of section 1705(h)(3),²⁰ the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5, United States Code, relating to classification and General Schedule pay rates.

(d)(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department, agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

(2) The Secretary of State, the Secretary of Defense,²¹ and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement

¹⁹22 U.S.C. 4606.

²⁰Sec. 319(c) of Public Law 101-520 (104 Stat. 2285) struck out "section 1705(g)(3)" and inserted in lieu thereof "section 1705(h)(3)" to conform with amendments to section 1705.

²¹Sec. 1225(c)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out "the Director of the Arms Control and Disarmament Agency" from this point.

within the respective department or agency of such officer or employee.

(e) No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f)(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, United States Code, which relate to Federal tort claims liability, and the provisions of title 5, United States Code, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates); subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

(2)²² The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

(g) No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this title.

(h) The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

PROCEDURES AND RECORDS

SEC. 1708.²³ (a) The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this title to ensure that the provisions of this title and the bylaws, rules, regulations, and guidelines promulgated pursuant to this title are adhered to.

(b) The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this title are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

²²Sec. 301(b) of Public Law 100-569 (102 Stat. 2864) struck out "No Federal funds shall be used to pay for private fringe benefit programs." at this point.

²³22 U.S.C. 4607.

(c) In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

(d) The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

(e) The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) The Institute shall keep a record of the names and addresses of its Board members; copies of this title, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

(g) The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(h) The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.

(i) The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

INDEPENDENCE AND LIMITATIONS

SEC. 1709.²⁴ (a) Nothing in this title may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

FUNDING

SEC. 1710.²⁵ (a) ²⁶ AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated \$15,000,000 for fiscal year 1999²⁶ and such sums as may be necessary for each of the 4²⁷ succeeding fiscal years.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(b) The Board of Directors may transfer to the legal entity authorized to be established under section 1704(c) any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated

²⁴ 22 U.S.C. 4608.

²⁵ 22 U.S.C. 4609.

²⁶ Sec. 931(2)(A) of Public Law 105-244 (112 Stat. 1834) struck out "1993" and inserted in lieu thereof "1999". Previously, sec. 1554(a) of Public Law 102-325 (106 Stat. 839) amended and restated subsec. (a) to authorize appropriations for fiscal year 1993.

Previously, sec. 301 of Public Law 100-569 (102 Stat. 2863) authorized appropriations for fiscal year 1989—\$10,000,000; fiscal year 1990—\$10,000,000; fiscal year 1991—\$10,000,000; fiscal year 1992—\$15,000,000; fiscal year 1993—\$15,000,000.

Sec. 1601 of Public Law 99-498 (100 Stat. 1268), replaced the years 1985 and 1986 with 1987 and 1988, authorizing appropriations of \$6,000,000 for fiscal year 1987 and \$10,000,000 for fiscal year 1988.

Title IV of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (H.R. 5656, enacted by reference in sec. 1(a)(1) of Public Law 106-554; 114 Stat. 2763), provided:

"UNITED STATES INSTITUTE OF PEACE

"OPERATING EXPENSES

"For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$15,000,000."

Previous appropriations include: fiscal year 1988—\$4,308,000 (Public Law 100-202; 101 Stat. 1329); fiscal year 1989—\$7,000,000 (Public Law 100-436; 102 Stat. 1713); fiscal year 1990—\$7,650,000 (Public Law 101-166; 103 Stat. 1189); fiscal year 1991—\$8,600,000 (Public Law 101-517; 104 Stat. 222); fiscal year 1992—\$11,000,000 (Public Law 102-170; 105 Stat. 1140); fiscal year 1993—\$11,000,000 (Public Law 102-394; 106 Stat. 1825); fiscal year 1994—\$10,912,000 (Public Law 103-112; 107 Stat. 1111); fiscal year 1995—\$11,500,000 (Public Law 103-333; 109 Stat. 2571); fiscal year 1996—\$11,500,000 (Public Law 104-134; 110 Stat. 1321-242); fiscal year 1997—\$11,160,000 (Public Law 104-208; 110 Stat. 3009-268); fiscal year 1998—\$11,160,000 (Public Law 105-78; 111 Stat. 1514); fiscal year 1999—\$12,160,000 (Public Law 105-277; 112 Stat. 2681-383); fiscal year 2000—\$13,000,000 (Public Law 106-113; 113 Stat. 1501).

²⁷ Sec. 2(k)(14) of Public Law 103-208 (Higher Education Technical Amendments of 1993; 107 Stat. 2486) amended sec. 1554 of Public Law 102-325, which amended sec. 1710. That amendment provided for "each of the 4 succeeding fiscal years". Public Law 103-208 further amended the amendment to provide for "each of the 6 succeeding fiscal years". Sec. 931(2)(B) of Public Law 105-244 (112 Stat. 1834) subsequently struck out "6" and inserted "4".

funds shall be reported to each House of the Congress and to the President of the United States.

(c) Any authority provided by this title to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DISSOLUTION OR LIQUIDATION

SEC. 1711.²⁸ Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this title, all income and assets of the Institute or other legal entity shall revert to the United States Treasury.

REPORTING REQUIREMENT AND REQUIREMENT TO HOLD HEARINGS

SEC. 1712.²⁹ Beginning two years after the date of enactment of this title, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this title during the preceding two-year period. The President may³⁰ prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives¹⁰ and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate may³⁰ hold hearings to review the findings and recommendations of such report and the written comments received from the President.

²⁸ 22 U.S.C. 4610.

²⁹ 22 U.S.C. 4611.

³⁰ Sec. 931(3) of Public Law 105-244 (112 Stat. 1834) struck out "shall" and inserted in lieu thereof "may" in the second and third sentences.

I. National Academy of Peace and Conflict Resolution

Title XV, part B of Public Law 95-561 [Education Amendments of 1978, H.R. 15], 92 Stat. 2143 at 2376, approved November 1, 1978

TITLE XV—MISCELLANEOUS PROVISIONS

* * * * *

PART B—NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION¹

ESTABLISHMENT

SEC. 1511. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

SEC. 1512. (a) The Commission shall undertake a study to consider—

- (1) whether to establish a National Academy of Peace and Conflict Resolution;
- (2) the size, cost, and location of an Academy;
- (3) the effects which the establishment of an Academy would have on existing institutions of higher education;
- (4) the relationship which would exist between an Academy and the Federal Government;
- (5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and
- (6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

- (1) review the theory and techniques of peaceful resolution of conflict between nations; and
- (2) study existing institutions which assist in resolving conflict in the areas of international relations.

MEMBERSHIP

SEC. 1513. (a) The Commission shall be composed of nine members as follows—

- (1) three appointed by the President pro tempore of the Senate;

¹ 20 U.S.C. 1172 note.

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

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

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

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTORS AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 1514. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

SEC. 1515. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer

oaths and affirmations to witnesses appearing before the Commission.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

REPORTS

SEC. 1516. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

TERMINATION

SEC. 1517. The Commission shall cease to exist sixty days after transmitting its final report under section 1516.

AUTHORIZATION OF APPROPRIATION

SEC. 1518. There is authorized to be appropriated not to exceed \$500,000 to carry out this title.

DEFINITIONS

SEC. 1519. For purposes of this title—

(1) the term “Academy” means the National Academy of Peace and Conflict Resolution;

(2) the term “Chairman” means the Chairman of the Commission selected under section 1513(e);

(3) the term “Commission” means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term “Federal agency” means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

3. Diplomatic Security and Anti-Terrorism ¹

a. International Terrorism, Torture, and War Crimes

Partial text of title 18, United States Code, as added by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; and amended by Public Law 100-690 [Anti-Drug Abuse Act of 1988; H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101-519² [Military Construction Appropriations Act, 1991; H.R. 5313], 104 Stat. 2240 at 2250, approved November 5, 1990; Public Law 102-27 [Dire Emergency Supplemental Appropriations For Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102-572 [Federal Courts Administration Act of 1992, S. 1569], 106 Stat. 4506, approved October 29, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-322 [Violent Crime Control and Law Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 103-429 [H.R. 4778], 108 Stat. 4377, approved October 31, 1994; Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104-192 [War Crimes Act of 1996; H.R. 3680], 110 Stat. 2104, approved August 21, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104-294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996; Public Law 105-118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; and by Public Law 105-277 [Chemical Weapons Convention Implementation Act of 1998; division I of H.R. 4328], 112 Stat. 2681-856, approved October 21, 1998

CHAPTER 113B—TERRORISM ³

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§ 2331.² Definitions

As used in this chapter—

- (1) the term “international terrorism” means activities that—
 - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
 - (B) appear to be intended—
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion; or
 - (iii) to affect the conduct of a government by assassination or kidnapping; and
 - (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;
- (2) the term “national of the United States” has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;
- (3) the term “person” means any individual or entity capable of holding a legal or beneficial interest in property; and
- (4) the term “act of war” means any act occurring in the course of—
 - (A) declared war;
 - (B) armed conflict, whether or not war has been declared, between two or more nations; or
 - (C) armed conflict between military forces of any origin.

¹ See also the establishment of the National Commission on Terrorism, sec. 591 of sec. 101(d) of Public Law 105–277 (112 Stat. 2681), in *Legislation on Foreign Relations Through 2001*, vol. I–A. See also PLO Commitments Compliance Act of 1989, title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 76), page 379. See also 49 U.S.C. 44901 *et seq.*, relating to aviation security, and other legislation relating to aviation security, in *Legislation on Foreign Relations Through 2001*, vol. IV.

² Sec. 132 of Public Law 101–519 (104 Stat. 225) amended section 2331 of chapter 113A, title 18, U.S.C., redesignated it as section 2332, and added new secs. 2331, 2333 through 2338. Sec. 132(d) of that Act further provided that “This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.”

However, sec. 402 of Public Law 102–27 (105 Stat. 155), as amended by sec. 126 of Public Law 102–136 (105 Stat. 643), repealed the amendments of Public Law 101–519, restoring sec. 2332 as sec. 2331. Sec. 402 of Public Law 102–27, as amended, provided as follows:

“SEC. 402. MILITARY CONSTRUCTION.

“(a) In Public Law 101–519, the Military Construction Appropriations Act, 1991, sections 131 and 132 are hereby repealed effective November 5, 1990.

“(b) Effective November 5, 1990, chapter 113A of title 18, United States Code, is amended to read as if section 132 of Public Law 101–519 [104 Stat. 2250] had not been enacted.”

Subsequently, sec. 1003(a) of the Federal Courts Administration Act of 1992 (Public Law 102–572; 106 Stat. 4521) redesignated sec. 2331 as 2332, and inserted new secs. 2331, 2333–2338, with such amendments applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102–572 (106 Stat. 4524; 18 U.S.C. 2331 note).

³ Sec. 250002(a) of Public Law 103–322 (108 Stat. 2082) redesignated this chapter as chapter 113B from chapter 113A, and inserted a new chapter 113A relating to telemarketing fraud.

⁴ Sec. 201(b)(1)(A) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871) inserted “certain” before “weapons” in the section catchline of sec. 2332a. Sec. (c) of that Act repealed sec. 2332c, relating to chemical weapons. See 18 U.S.C. Chapter 11B, as added by sec. 201(a) of the Chemical Weapons Convention Implementation Act of 1998, page 1688.

§ 2332.⁵ Criminal penalties

(a) **HOMICIDE.**—Whoever kills a national of the United States, while such national is outside the United States, shall—

(1)⁶ if the killing is murder (as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both.

(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

(b) **ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.**—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) **OTHER CONDUCT.**—Whoever outside the United States engages in physical violence—

(1) with intent to cause serious bodily injury to a national of the United States; or

(2) with the result that serious bodily harm is caused to a national of the United States;

shall be fined under this title or imprisoned not more than ten⁷ years, or both.

(d)⁸ **LIMITATION ON PROSECUTION.**—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the

⁵This section was added as sec. 2331 by sec. 1202(a) of Public Law 99-399 (100 Stat. 896), with a caption that read “Terrorist acts abroad against United States nationals”. Sec. 1003(a)(2) of Public Law 102-572 (106 Stat. 4521) redesignated sec. 2331 as 2332, struck out the caption, and inserted in its place a caption that read “Criminal penalties”, with such amendment applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102-572 (106 Stat. 4524; 18 U.S.C. 2331 note).

⁶Sec. 60022 of Public Law 103-322 (108 Stat. 1980) amended and restated sec. 2332(a)(1). It formerly read as follows:

“(1) if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;”

⁷Sec. 705(a)(6) of Public Law 104-132 (110 Stat. 1295) struck out “five” and inserted in lieu thereof “ten”.

⁸Sec. 1003(a)(1) of Public Law 102-572 (106 Stat. 4521) struck out subsec. (d), and redesignated subsec. (e) as (d), with such amendment applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102-572 (106 Stat. 4524; 18 U.S.C. 2331 note). Subsec. (d) defined “national of the United States” as having the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

§ 2332a.⁹ Use of certain weapons of mass destruction¹⁰

(a)¹¹ OFFENSE AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES.—A person who, without lawful authority, uses, threatens, or attempts¹² or conspires to use, a weapon of mass destruction (other than a chemical weapon as that term is defined in section 229F),¹³ including any biological agent, toxin, or vector (as those terms are defined in section 178)—¹⁴

(1) against a national of the United States while such national is outside of the United States;

(2) against any person within the United States, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;¹⁵ or

(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

(b)¹⁶ OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction (other than a chemical weapon (as that term is defined in section 229F))¹⁷ outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.

(c)¹⁶ DEFINITIONS.—For purposes of this section—

(1) the term “national of the United States” has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(2) the term “weapon of mass destruction” means—

(A) any destructive device as defined in section 921 of this title;

⁹Sec. 60023(a) of Public Law 103–322 (108 Stat. 1980) added sec. 2332a.

¹⁰Sec. 201(b)(1)(A) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871) inserted “certain” before “weapons”.

¹¹Sec. 725(1)(A) of Public Law 104–132 (110 Stat. 1300) inserted “AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES” after “OFFENSE” in the subsec. heading.

¹²Sec. 725(1)(B) of Public Law 104–132 (110 Stat. 1300) struck out “uses, or attempts” and inserted in lieu thereof “, without lawful authority, uses, threatens, or attempts”.

¹³Sec. 201(b)(1)(B) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871) inserted “(other than a chemical weapon as that term is defined in section 229F)”. See the Chemical Weapons Convention Implementation Act of 1998 for that section, beginning at page 1688.

¹⁴Sec. 511(c) of Public Law 104–132 (110 Stat. 1284) added “including any biological agent, toxin, or vector (as those terms are defined in section 178)” after “destruction”.

¹⁵Sec. 725(1)(C) of Public Law 104–132 (110 Stat. 1300) added “, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce”.

¹⁶Sec. 725(3) and (4) of Public Law 104–132 (110 Stat. 1300) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

¹⁷Sec. 201(b)(1)(C) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871) inserted “(other than a chemical weapon (as that term is defined in section 229F))”.

(B)¹⁸ any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(C) any weapon involving a disease organism; or

(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

§ 2332b.¹⁹ Acts of terrorism transcending national boundaries

(a) PROHIBITED ACTS.—

(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

(b) JURISDICTIONAL BASES.—

(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

(A)²⁰ the mail or any facility of interstate or foreign commerce is used²⁰ in furtherance of the offense;

(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

¹⁸Sec. 725(2) of Public Law 104–132 (110 Stat. 1300), as amended by sec. 605(m) of Public Law 104–294 (110 Stat. 3510), amended and restated subpara. (B). It formerly read “(B) poison gas;”

¹⁹Added by sec. 702(a) of Public Law 104–132 (110 Stat. 1291).

²⁰Sec. 601(s)(1) of Public Law 104–294 (110 Stat. 3502) struck out “any of the offenders uses” at the beginning of subpara. (A) and inserted “is used” after “foreign commerce”.

(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

(c) PENALTIES.—

(1) PENALTIES.—Whoever violates this section shall be punished—

(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

(B) for kidnapping, by imprisonment for any term of years or for life;

(C) for maiming, by imprisonment for not more than 35 years;

(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

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

(1) the term “conduct transcending national boundaries” means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

(2) the term “facility of interstate or foreign commerce” has the meaning given that term in section 1958(b)(2);

(3) the term “serious bodily injury” has the meaning given that term in section 1365(g)(3);

(4) the term “territorial sea of the United States” means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

(5) the term “Federal crime of terrorism” means an offense that—

(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

(B) is a violation of—

(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 930(c),²¹ 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 1992,²¹ 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating

²¹Sec. 601(s)(3) of Public Law 104–294 (110 Stat. 3502) inserted reference to secs. 930(c), 1992, and 2332c.

to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332c,²¹ 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

§ 2332c.²² * * * [Repealed—1998]

§ 2332d.²³ Financial transactions

(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

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

²² Originally added by sec. 521(a) of Public Law 104–132 (110 Stat. 1286); repealed by sec. 201(c) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871). See that Act, beginning at page 1688. Sec. 2332c formerly read as follows:

§ 2332c. Use of chemical weapons

“(a) PROHIBITED ACTS.—

“(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

“(A) a national of the United States while such national is outside of the United States;

“(B) any person within the United States; or

“(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

“(2) PENALTIES.—A person who violates paragraph (1)—

“(A) shall be imprisoned for any term of years or for life; or

“(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘national of the United States’ has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

“(2) the term ‘chemical weapon’ means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.”.

²³ Sec. 321(a) of Public Law 104–132 (110 Stat. 1254) added sec. 2332d. Sec. 321(c) of that Act also provided that “The amendments made by this section shall become effective 120 days after the date of enactment of this Act.” [enactment date, April 24, 1996].

- (1) the term “financial transaction” has the same meaning as in section 1956(c)(4); and
- (2) the term “United States person” means any—
 - (A) United States citizen or national;
 - (B) permanent resident alien;
 - (C) juridical person organized under the laws of the United States; or
 - (D) any person in the United States.

§ 2332e.²⁴ Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

§ 2333.² Civil remedies

(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney’s fees.

(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 46314, 46502, 46505, or 46506 of title 49²⁵ shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

§ 2334.² Jurisdiction and venue

(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

²⁴Sec. 1416(c)(2)(A) of Public Law 104–201 (110 Stat. 2723) added this section as section 2332d to “chapter 133B of title 18, United States Code, that relates to terrorism after section 2332c”. There is no chapter 133B; it is assumed the amendment is to chapter 113B. Sec. 605(q) of Public Law 104–294 (110 Stat. 3510) subsequently redesignated the section as sec. 2332e and moved the section to follow sec. 2332d.

²⁵Sec. 2(1) of Public Law 103–429 (108 Stat. 4377) struck out “section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r))” and inserted in lieu thereof “section 46314, 46502, 46505, or 46506 of title 49”.

(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

(2) that foreign court is significantly more convenient and appropriate; and

(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

§ 2335.² Limitation of actions

(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

§ 2336.² Other limitations

(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of dis-

covery under this subsection, it may stay the action in the interests of justice.

(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

§ 2337.² Suits against Government officials

No action shall be maintained under section 2333 of this title against—

(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

§ 2338.² Exclusive Federal jurisdiction

The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.

§ 2339A.²⁶ Providing material support to terrorists

(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, loca-

²⁶No sec. 2339 is enacted. Sec. 2339A was added by sec. 12005(a) of Public Law 103-322 (108 Stat. 2022), and amended and restated by sec. 323 of Public Law 104-132 (110 Stat. 1255). It formerly read as follows:

“§ 2339A. Providing material support to terrorists

“(a) DEFINITION.—In this section, ‘material support or resources’ means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

“(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844(f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 46502 of title 49, or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

“(c) INVESTIGATIONS.—

“(1) IN GENERAL.—Within the United States, an investigation may be initiated or continued under this section only when facts reasonably indicate that—

“(A) in the case of an individual, the individual knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law; and

tion, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 930(c),²⁷ 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992,²⁷ 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332c,²⁷ or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment or an escape²⁸ from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

(b) DEFINITION.—In this section, the term “material support or resources” means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

§ 2339B.²⁹ Providing material support or resources to designated foreign terrorist organizations

(a) PROHIBITED ACTIVITIES.—

(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

(A) retain possession of, or maintain control over, such funds; and

(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

(A) \$50,000 per violation; or

(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

“(B) in the case of a group of individuals, the group knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law.”

“(2) ACTIVITIES PROTECTED BY THE FIRST AMENDMENT.—An investigation may not be initiated or continued under this section based on activities protected by the First Amendment to the Constitution, including expressions of support or the provision of financial support for the nonviolent political, religious, philosophical, or ideological goals or beliefs of any person or group.”

Sec. 601(b)(2) of Public Law 104–294 (110 Stat. 3498) made amendments to language in sec. 2339A(b) that is no longer in law, and probably refers to the former language. These amendments include: (A) striking “2331” and inserting “2332”; (B) striking “2339” and inserting “2332a”; (C) striking “36” and inserting “37”; and (D) striking “of an escape” and inserting “or an escape”.

²⁷Sec. 601(s)(2) of Public Law 104–294 (110 Stat. 3502) inserted “or an escape” after “concealment”.

²⁸Sec. 601(s)(3) of Public Law 104–294 (110 Stat. 3502) inserted reference to secs. 930(c), 1992, and 2332c.

²⁹Sec. 303(a) of Public Law 104–132 (110 Stat. 1250) added sec. 2339B.

(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

(B) civil penalty proceedings authorized under subsection (b).

(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

(ii) substitute a summary of the information for such classified documents; or

(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection

- therewith, shall be maintained under seal and delivered to the appellate court.
- (2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—
- (A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:
- (i) Copies of items from which classified information has been redacted.
 - (ii) Stipulations admitting relevant facts that specific classified information would tend to prove.
 - (iii) A declassified summary of the specific classified information.
- (B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.
- (3) TAKING OF TRIAL TESTIMONY.—
- (A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.
- (B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—
- (i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and
 - (ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.
- (C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.
- (4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).
- (5) INTERLOCUTORY APPEAL.—
- (A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—
- (i) authorizing the disclosure of classified information;
 - (ii) imposing sanctions for nondisclosure of classified information; or

(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

(B) EXPEDITED CONSIDERATION.—

(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(III) shall render its decision not later than 4 days after argument on appeal; and

(IV) may dispense with the issuance of a written opinion in rendering its decision.

(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

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

(1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term “financial institution” has the same meaning as in section 5312(a)(2) of title 31, United States Code;

(3) the term “funds” includes coin or currency of the United States or any other country, traveler’s checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

(4) the term “material support or resources” has the same meaning as in section 2339A;

(5) the term “Secretary” means the Secretary of the Treasury; and

(6) the term “terrorist organization” means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

CHAPTER 113C—TORTURE³⁰

Sec.
 2340. Definitions.
 2340A. Torture.
 2340B. Exclusive remedies.

§ 2340. Definitions

As used in this chapter—

(1) “torture” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his³¹ custody or physical control;

(2) “severe mental pain or suffering” means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

(3) “United States” includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 40102(a) of title 49.³²

§ 2340A. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or³³ imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

³⁰Originally designated as a second chapter 113B, added by sec. 506(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 463). Sec. 303(c) of Public Law 104-132 (110 Stat. 1253) redesignated the chapter as “Chapter 113C”. Sec. 601(j)(1) of Public Law 104-294 (110 Stat. 3501) made the same amendment.

Sec. 506(c) of Public Law 103-236 (108 Stat. 464) further provided:

“(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

“(1) the date of enactment of this Act; or

“(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.” [not yet entered into force for the United States].

³¹Sec. 1(k) of Public Law 103-415 (108 Stat. 4301) struck out “with” and inserted in lieu thereof “within his”.

³²Sec. 1(2) of Public Law 103-429 (108 Stat. 4377) struck out “section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38))”, and inserted in lieu thereof “section 40102(a) of title 49”.

³³Sec. 60020 of Public law 103-322 (108 Stat. 1979) inserted “punished by death or” before imprisoned for any term”.

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

§ 2340B. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.

* * * * *

CHAPTER 118—WAR CRIMES³⁴

Sec.
2441. War crimes.

§ 2441.³⁵ War crimes

(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a war crime,³⁶ in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such war crime³⁷ or the victim of such war crime³⁷ is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c)³⁸ DEFINITION.—As used in this section the term “war crime” means any conduct—

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Re-

³⁴ Added by sec. 2(a) of the War Crimes Act of 1996 (Public Law 104–192; 110 Stat. 2104).

³⁵ Redesignated from sec. 2401 to sec. 2441 by 605(p)(1) of Public Law 104–294 (110 Stat. 3510).

³⁶ Sec. 583(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), struck out “grave breach of the Geneva Conventions” and inserted in lieu thereof “war crime”.

³⁷ Sec. 583(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), struck out “breach” and inserted in lieu thereof “war crime”.

³⁸ Sec. 583(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), amended and restated subsec. (c), which had formerly read as follows:

“(c) DEFINITIONS.—As used in this section, the term “grave breach of the Geneva Conventions” means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party.”.

strictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.

b. Omnibus Diplomatic Security and Antiterrorism Act of 1986

Partial text of Public Law 99-399 [H.R. 4151], 100 Stat. 853, approved August 27, 1986, as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*¹

SECTION 1. SHORT TITLE.

This Act may be cited as the “Omnibus Diplomatic Security and Antiterrorism Act of 1986”.

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TITLE I—DIPLOMATIC SECURITY

SEC. 101. SHORT TITLE.

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

SEC. 102.² FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

² 22 U.S.C. 4801.

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b)³ PURPOSES.—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(3) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities;⁴

(4)⁴ to set forth the responsibility of the Secretary of State with respect to the safe and efficient evacuation of United States Government personnel, their dependents, and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster; and

(5)⁴ to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

SEC. 103.⁵ RESPONSIBILITY OF THE SECRETARY OF STATE

(a) SECURITY FUNCTIONS.—(1)⁶ The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

³Sec. 162(g)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 406), struck out para. (2) and redesignated paras. (3) through (6) as paras. (2) through (5), respectively. Para. (2) had provided:

“(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State.”

⁴Sec. 115(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 2), struck out “and” at the end of par. (4); redesignated par. (5) as (6); and added a new par. (5). Paras. (5) and (6) were subsequently redesignated as paras. (4) and (5); see above note.

⁵22 U.S.C. 4802.

⁶Sec. 162(g)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 406), inserted para. designated “(1)”; redesignated former paras. (1) through (4) as subparagraphs. (A) through (D); and added new para. (2).

- (A) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;
 - (B) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);
 - (C) establishment and operation of security functions at all Department of State facilities in the United States; and
 - (D) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.
- (2)^{6,7} Security responsibilities shall include the following:
- (A) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.
 - (B) SECURITY AND PROTECTIVE OPERATIONS.—
 - (i) Establishment and operation⁸ of post security and protective functions abroad.
 - (ii) Development and implementation of communications, computer, and information security.
 - (iii) Emergency planning.
 - (iv) Establishment and operation of local guard services abroad.
 - (v) Supervision of the United States Marine Corps security guard program.
 - (vi) Liaison with American overseas private sector security interests.
 - (vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.
 - (viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.
 - (ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.
 - (x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.
 - (xi) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.
 - (xii) Performance of other security, investigative, and protective matters as authorized by law.

⁷The Secretary of State delegated functions authorized under this subsection to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

⁸Sec. 1(f)(4)(A)(i) of Public Law 103-415 (108 Stat. 4300) struck out "operations" and inserted in lieu thereof "operation".

(C) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(D) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(E) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

(F) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(G) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

(b)⁹ OVERSEAS EVACUATIONS.—The Secretary of State shall develop and implement policies and programs to provide for the safe and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—

(1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;

(2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;

(3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and

(4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.

(c)⁹ OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities,

⁹Sec. 115(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), redesignated subsecs. (b) and (c) as (c) and (d), respectively, and added a new subsec. (b).

installations, or personnel under the command of a United States area military commander);

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development).¹⁰

(d)⁷ FEDERAL AGENCY.—As used in this title and title III, the term “Federal agency” includes any department or agency of the United States Government.

SEC. 104.¹¹ * * * [Repealed—1994]

SEC. 105.¹² * * * [Repealed—1994]

SEC. 106.¹³ **COOPERATION OF OTHER FEDERAL AGENCIES.**

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary’s authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) OTHER AGENCIES.—Nothing contained in titles I through IV shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease (to such extent or in cash amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department

¹⁰Sec. 201 of The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268), added text after “commander”, and struck out paragraph (3), added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, at this point. Paragraph (3) formerly read as follows:

“(3) establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided*, That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further*, That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further*, That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided.”

¹¹Formerly at 22 U.S.C. 4803. Sec. 162(g)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), repealed sec. 104, which established the Bureau of Diplomatic Security, overseen by the Assistant Secretary for Diplomatic Security.

¹²Formerly at 22 U.S.C. 4804. Sec. 162(g)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), repealed sec. 105, which stated the responsibilities of the Assistant Secretary for Diplomatic Security.

¹³22 U.S.C. 4805.

of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

SEC. 107.¹⁴ PROTECTION OF FOREIGN CONSULATES.

The Secretary of State shall take into account security considerations¹⁵ in making determinations with respect to accreditation of all foreign consular personnel in the United States.

TITLE II—PERSONNEL¹⁶

SEC. 201.¹⁷ DIPLOMATIC SECURITY SERVICE.

The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.

SEC. 202.¹⁸ DIRECTOR OF DIPLOMATIC SECURITY SERVICE.

Any such¹⁹ Diplomatic Security Service should¹⁹ be headed by a Director designated by the Secretary of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad should¹⁹ be considered an affirmative factor in the selection of the Director.

SEC. 203.²⁰ SPECIAL AGENTS.

Special agent positions²¹ shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. The²² qualifications may include minimum and maximum entry

¹⁴ 22 U.S.C. 4806. The Secretary of State delegated functions authorized under this section to the Chief of Protocol (Department of State Public Notice 2086; sec. 15 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁵ Sec. 162(g)(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security" and inserted in lieu thereof "The Secretary of State shall take into account security considerations".

¹⁶ Sec. 162(g)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "DIPLOMATIC SECURITY SERVICE" and inserted in lieu thereof "PERSONNEL".

¹⁷ 22 U.S.C. 4821. Sec. 162(g)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), amended and restated sec. 201.

¹⁸ 22 U.S.C. 4822.

¹⁹ Sec. 162(g)(8)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "The" and inserted "Any such" in the first sentence of sec. 202. Sec. 162(g)(8)(B) of that Act replaced "shall" in the first, third, and fourth sentences of this section with "should". Sec. 162(g)(8)(C) of that Act subsequently struck out the last [fourth] sentence of the section, which had provided that: "The Director should act under the supervision and direction of the Assistant Secretary for Diplomatic Security."

²⁰ 22 U.S.C. 4823. Section catchline was amended by sec. 162(g)(9)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407); formerly read "POSITIONS IN THE DIPLOMATIC SECURITY SERVICE."

²¹ Sec. 162(g)(9)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Positions in the Diplomatic Security Service" and inserted in lieu thereof "Special agent positions".

²² Sec. 162(g)(9)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "In the case of positions designated for special agents, the" in the last sentence, and inserted in lieu thereof "The".

age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities, as are available by law to special agents of the Department of State and the Foreign Service.

SEC. 206.²³ CONTRACTING AUTHORITY.

The Secretary of State is authorized to employ individuals or organizations by contract to carry out the purposes of this Act, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of any law administered by the Secretary concerning the employment of such individuals); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making and performance of contracts and performance of work in the United States.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

SEC. 301.²⁴ ACCOUNTABILITY REVIEW BOARDS.

(a) IN GENERAL.—

²³ 22 U.S.C. 4824. Added by sec. 104 of division C of Public Law 105-277 (112 Stat. 2681-586).

²⁴ 22 U.S.C. 4831. Sec. 608 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), amended and restated sec. 301. It formerly read, as amended, as follows:

“SEC. 301. ACCOUNTABILITY REVIEW.

“In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this title referred to as the “Board”). With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.”

Sec. 140(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 399), provides the following:

“(c) PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—

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

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

“(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious loss of life or property in the United States, the Secretary of State shall convene an Accountability Review Board under

(1) CONVENING A BOARD.—Except as provided in paragraph (2), in any case of serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (in this title referred to as the “Board”). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

(2) DEPARTMENT OF DEFENSE FACILITIES AND PERSONNEL.—The Secretary of State is not required to convene a Board in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 106 of this Act. In any such case, the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

(b) DEADLINES FOR CONVENING BOARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of State shall convene a Board not later than 60 days after the occurrence of an incident described in subsection (a)(1), except that such 60-day period may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary for the convening of the Board.

(2) DELAY IN CASES INVOLVING INTELLIGENCE ACTIVITIES.—With respect to breaches of security involving intelligence ac-

the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.”

In Department of State Public Notice 2905 (63 F.R. 58807; October 13, 1998), the Secretary of State:

“* * * determined that the August 7, 1998 bomb attacks on the U.S.embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, each involved serious injury, loss of life, or significant destruction of property at or related to a U.S. mission abroad. Therefore, I am convening two Accountability Review Boards, as required by that statute, to examine the facts and circumstances of each attack and report to me such findings and recommendations as they deem appropriate, * * *”

In Department of State Public Notice 2349 (61 F.R. 8322; February 22, 1996), the Deputy Secretary of State:

“* * * determined that the November 13, 1995, car-bomb attack on the headquarters of the Office of Program Manager, Saudi Arabian National Guard in Riyadh, Saudi Arabia, involved loss of life related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, * * *”

In Department of State Public Notice 2191 (60 F.R. 21020; April 28, 1995), the Deputy Secretary of State:

“* * * determined that the March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan, involved loss of life related to a U.S. mission abroad. Therefore I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, * * *.”

Previously, an accountability review board was convened to investigate an explosion at the U.S. ambassador’s residence in Lima, Peru (State Department Public Notice 1587; April 15, 1992; 57 F.R. 14744).

tivities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

(c) NOTIFICATION TO CONGRESS.—Whenever the Secretary of State convenes a Board, the Secretary shall promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives—

- (1) that a Board has been convened;
- (2) of the membership of the Board; and
- (3) of other appropriate information about the Board.

SEC. 302.²⁵ ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code or other applicable law.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) EXPERTS AND CONSULTANTS.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303.²⁶ PROCEDURES.

(a) EVIDENCE.—

(1) UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.—

²⁵ 22 U.S.C. 4832.

²⁶ 22 U.S.C. 4833.

(A) With respect to any individual described in subparagraph (B), a Board may—

- (i) administer oaths and affirmations;
- (ii) require that depositions be given and interrogatories answered; and
- (iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

- (i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);
- (ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;
- (iii) employees of instrumentalities of the United States; and
- (iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy of refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information

and for information relating to intelligence personnel, including standards for secure storage.

(c) **RECORDS.**—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5, United States Code (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 304(c) to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) **STATUS OF BOARDS.**—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304.²⁷ FINDINGS AND RECOMMENDATIONS BY A BOARD.

(a) **FINDINGS.**—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining—

- (1) the extent to which the incident or incidents with respect to which the Board was convened was security related;
- (2) whether the security systems and security procedures at that mission were adequate;
- (3) whether the security systems and security procedures were properly implemented;
- (4) the impact of intelligence and information availability; and
- (5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) **PROGRAM RECOMMENDATIONS.**—A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

(c) **PERSONNEL RECOMMENDATIONS.**—Whenever a Board finds reasonable cause to believe that an individual described in section

²⁷ 22 U.S.C. 4834. The words “or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)” in subsec. (a) were added by sec. 156(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1354).

303(a)(1)(B) has breached the duty of that individual, the Board shall—

- (1) notify the individual concerned,
- (2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and
- (3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality, to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

SEC. 305.²⁸ RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

SEC. 401.²⁹ AUTHORIZATION.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified

²⁸ 22 U.S.C. 4835.

²⁹ 22 U.S.C. 4851. Sec. 302 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207; 22 U.S.C. 4851 note), provided the following:

“The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month.”.

to the Congress for the respective fiscal year for "Administration of Foreign Affairs," as follows:

(A) For "Salaries and Expenses," \$308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad," \$857,806,000.

(C) For "Counterterrorism Research and Development," \$15,000,000.

(2) ANTITERRORISM ASSISTANCE.—* * *.

(3)³⁰ * * * [Repealed—1995]

(4) ALLOCATION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Amounts authorized to be appropriated by this subsection, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled "Diplomatic Security Program" relating to this section which appears in the Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs³¹ of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c)³² * * * [Repealed—1994]

(d) PROHIBITION ON REALLOCATIONS OF AUTHORIZATIONS.—Section 24(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2692(d)) shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State

³⁰Sec. 101(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 388), repealed para. (3), effective October 1, 1995. It had read, as amended, as follows:

"(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There is authorized to be appropriated for the Department of State for "Acquisition and Maintenance of Buildings Abroad" for each of the fiscal years 1988 through 1990, \$417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program. Authorizations of appropriations under this paragraph shall remain available until the appropriations are made."

³¹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

³²Sec. 122(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), repealed subsec. (c). Subsec. (c) formerly read as follows:

"(c) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming."

shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

(g) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), \$34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h)³³ FURNITURE, FURNISHINGS, AND EQUIPMENT.

(1) USE OF EXISTING FURNITURE, FURNISHINGS, AND EQUIPMENT.—If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

SEC. 402.³⁴ DIPLOMATIC CONSTRUCTION PROGRAM.

(a)³⁵ PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding \$10,000,000;³⁶ and

(2)³⁷ bid on a diplomatic construction or design project which involves technical security, unless the project involves low-level technology, as determined by the Secretary of State.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the

³³ Para. (2) of this subsec. amended sec. 9 of the Foreign Service Buildings Act of 1926. Sec. 122(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), repealed para. (3), which read as follows:

“(3) REPROGRAMMING TREATMENT.—Amounts made available for furniture, furnishings, and equipment pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.”.

³⁴ 22 U.S.C. 4852.

³⁵ Sec. 125 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27) provided that “Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada.”.

³⁶ Sec. 131(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 662), struck out “\$5,000,000” and inserted in lieu thereof “\$10,000,000”.

³⁷ Sec. 131(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 662), amended and restated par. (2). It had previously been rewritten by sec. 132 of Public Law 101-246 (104 Stat. 32). Subsequently, sec. 162(g)(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “Assistant Secretary for Diplomatic Security” and inserted in lieu thereof “Secretary of State” at the close of the sentence.

The Secretary of State delegated functions authorized under this subsection to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

Secretary of State certifies to the Committee on Foreign Affairs³⁸ and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act").

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United State citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

³⁸Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) LIMITATION ON SUBCONTRACTING.—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

SEC. 403.³⁹ SECURITY REQUIREMENTS FOR CONTRACTORS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

SEC. 404.⁴⁰ QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

SEC. 405.⁴¹ COST OVERRUNS.

Any amount required to complete any capital project described in the Department of State’s Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project pursuant to section 401(a) (1) or (3) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 406.⁴² EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and

³⁹ 22 U.S.C. 4853.

⁴⁰ 22 U.S.C. 4854.

⁴¹ 22 U.S.C. 4855.

⁴² 22 U.S.C. 4856.

penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

(b) **SURETY BONDS AND GUARANTEES.**—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(c) **DISQUALIFICATION OF CONTRACTORS.**—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.

SEC. 407.⁴³ ADVISORY PANEL ON OVERSEAS SECURITY.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

SEC. 408.⁴⁴ TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

(a) **TRAINING.**—It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

SEC. 409.⁴⁵ PROTECTION OF PUBLIC ENTRANCES OF UNITED STATES DIPLOMATIC MISSIONS ABROAD.

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

SEC. 410. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: “In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.”

SEC. 411.⁴⁶ REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

⁴³ 22 U.S.C. 4857.

⁴⁴ 22 U.S.C. 4858. Sec. 139(20) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (b) of this section, which had required that the President report annually “on the progress and problems of improving perimeter security of United States diplomatic missions abroad.”

⁴⁵ 22 U.S.C. 4859.

⁴⁶ 22 U.S.C. 4860.

SEC. 412. INSPECTOR GENERAL FOR THE UNITED STATES INFORMATION AGENCY.

(a) * * *.

(b) **EARMARK.**—Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than \$3,000,000 shall be available only for the operation of the office of the Inspector General established by the amendment made by subsection (a).

(c) **POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.**—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“Inspector General, United States Information Agency.”.

SEC. 413.⁴⁷ INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) **DIRECTION TO ESTABLISH.**—The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁴⁸ of the House of Representatives on the progress of establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office.

(b) **DUTIES AND RESPONSIBILITIES.**—The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and in the Inspector General Act of 1978.

(c) **EARMARK.**—Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading “Administration of Foreign Affairs”, not less than \$6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

(d) **LIMITATION ON APPOINTMENT.**—No career member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903), may be appointed Inspector General of the Department of State.

(e) **POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.**—Section 5315 of title 5, United States Code (as amended by section 412), is amended by adding at the end thereof the following:

“Inspector General, Department of State.”.

(6)⁴⁹ * * * [Repealed—1986]

(b)⁵⁰ * * * [Repealed—1987]

(c) * * *

⁴⁷ 22 U.S.C. 4861. Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331), redesignated former subsecs. (1) through (5) as (a) through (e).

⁴⁸ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁴⁹ Paragraph (6) was repealed by sec. 405 of Public Law 99-529 (100 Stat. 3010).

⁵⁰ Former subsec. (b) was repealed by sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1344). Subsec. (b) established an Office of Policy and Program Review.

SEC. 414.⁵¹ PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

SEC. 415.⁵² USE OF CLEARED PERSONNEL TO ENSURE SECURE MAINTENANCE AND REPAIR OF DIPLOMATIC FACILITIES ABROAD.

(a) **POLICIES AND REGULATIONS.**—The Secretary of State shall develop and implement policies and regulations to provide for the use of persons who have been granted an appropriate United States security clearance to ensure that the security of areas intended for the storage of classified materials or the conduct of classified activities in a United States diplomatic mission or consular post abroad is not compromised in the performance of maintenance and repair services in those areas.

(b) **STUDY AND REPORT.**—The Secretary of State shall conduct a study of the feasibility and necessity of requiring that, in the case of certain United States diplomatic facilities abroad, no contractor shall be hired to perform maintenance or repair services in an area intended for the storage of classified materials or the conduct of classified activities unless such contractor has been granted an appropriate United States security clearance. Such study shall include, but is not limited to, United States facilities located in Cairo, New Delhi, Riyadh, and Tokyo. Not later than 180 days after the date of the enactment of this section, the Secretary of State shall report the results of such study to the Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁵³ of the House of Representatives.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501.⁵⁴ REWARDS FOR INTERNATIONAL TERRORISTS.

It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C.

⁵¹ 22 U.S.C. 4862. Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2208), provided the following:

“SEC. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988-89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after the construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.”

⁵² Sec. 133 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 32), added sec. 415.

⁵³ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁵⁴ 22 U.S.C. 2708 note. Sec. 12 of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1963), amended section 36(c) of the State Department Basic Authorities Act of 1956, to increase the amount available for rewards for information leading to the arrest and conviction in any country of any individual involved in the commission of an act of international terrorism from \$500,000 to \$2,000,000.

2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice.

* * * * *

SEC. 505.⁵⁵ TERRORISM-RELATED TRAVEL ADVISORIES.

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

* * * * *

SEC. 508. NONLETHAL AIRPORT SECURITY EQUIPMENT AND COMMODITIES FOR EGYPT.

In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such chapter) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised by the Department of State's office responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961, in coordination with the Agency for International Development.

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TITLE VI—INTERNATIONAL NUCLEAR TERRORISM

SEC. 601.⁵⁶ ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

(a) **ACTIONS TO BE TAKEN BY THE PRESIDENT.**—The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

⁵⁵ 22 U.S.C. 2656e.

⁵⁶ 22 U.S.C. 3244.

- (A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and
- (B) to ensure that when any such material is transported internationally, it is under the most effective means for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and
- (4) to seek agreement in the United Nations Security Council to establish—
 - (A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and
 - (B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) **REPORTS TO THE CONGRESS.**—The President shall report to the Congress annually, in the reports required by section 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281), on the progress made during the preceding year in achieving the objectives described in this section.

* * * * *

SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

(a) **REVIEWS.**—The Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Controls and Disarmament Agency, and the Nuclear Regulatory Commission shall each review the adequacy of the physical security standards currently applicable with respect to the shipment and storage (outside the United States) of plutonium, and uranium enriched to more than 20 percent in the isotope 233 or the isotope 235, which is subject to United States prior consent rights, with special attention to protection against risks of seizure or other terrorist acts.

(b) **REPORTS.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each submit a written report to the Committee on Foreign Affairs⁴⁹ of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth the results of the review conducted pursuant to this section, together with appropriate recommendations.

SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM PROBLEM.

The Congress strongly urges the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

* * * * *

**TITLE VII—MULTILATERAL COOPERATION TO COMBAT
INTERNATIONAL TERRORISM**

SEC. 701. INTERNATIONAL ANTITERRORISM COMMITTEE.

(a) **FINDINGS.**—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the 1986 Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) **INTERNATIONAL ANTITERRORISM COMMITTEE**—The Congress hereby directs the President to continue to seek the establishment of an international committee, to be known as the International Antiterrorism Committee. As a first step in establishing such committee, the President should propose to the North Atlantic Treaty Organization the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations. After the establishment of this committee, the President should invite such other countries who may choose to participate. The purpose of the International Antiterrorism Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism (including nuclear terrorism), by serving as a forum at both the political and law enforcement levels.

SEC. 702. INTERNATIONAL ARRANGEMENTS RELATING TO PASSPORTS AND VISAS.

The Congress strongly urges the President to seek the negotiation of international agreements (or other appropriate arrangements) to provide for the sharing of information relating to passports and visas in order to enhance cooperation among countries in combating international terrorism.

SEC. 703. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) **FINDINGS**.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passport.

(b) **REPORT**.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the implications of deleting the place of birth as a required item of information on passports.

SEC. 704. USE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR TERRORISM PURPOSES.

The Congress strongly urges the President to instruct the Permanent Representative of the United States to the United Nations to seek the adoption of a resolution in the United Nations condemning the use for terrorist purposes of diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations, especially the misuse of diplomatic pouches and diplomatic missions.

SEC. 705. REPORTS ON PROGRESS IN INCREASING MULTILATERAL CO-OPERATION.

Not later than February 1, 1987, the President shall submit a report to the Congress on the steps taken to carry out each of the preceding sections of this title (except for section 703) and the progress being made in achieving the objectives described in these sections.

TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

SEC. 801. SHORT TITLE.

This title may be cited as the “Victims of Terrorism Compensation Act.”

SEC. 802. PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981.

The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be \$50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.

SEC. 803. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end therefore the following:

“§ 5569.⁵⁷ Benefits for captives

“(a) For the purpose of this section—

“(1) ‘captive’ means any individual in a captive status commencing while such individual is—

“(A) in the Civil Service, or

“(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

“(2) ‘captive status’ means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual’s relationship with the Government;

“(3) ‘missing status’—

“(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

“(B) in the case of an individual other than an employee, has a similar meaning; and

“(4) ‘family member,’ as used with respect to a person, means—

“(A) any dependent of such person; and

⁵⁷Functions vested in the President by this section were delegated to the Secretary of State by Executive Order 12598 (July 17, 1987; 52 F.R. 23421).

“(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person’s family or household.

“(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

“(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

“(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

“(4) Any interest accruing under this subsection on—

“(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

“(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

“(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

“(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

“(1) is incident to such individual being a captive; and

“(2) is not covered—

“(A) by any Government medical or health program; or

“(B) by insurance.

“(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

“(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

“(3) The President—

“(A) may refer a payment under this subsection in the case of any individual who, during the one-year period described in

paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

“(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

“(i) during the period of captivity of such individual; and

“(ii) related to the captive status of such individual.

“(4) A payment under this subsection shall be in addition to any other amount provided by law.

“(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

“(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

“(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

“(2) In applying such Act under this subsection—

“(A) the term ‘person in the military service’ is deemed to include any such captive;

“(B) the term ‘period of military service’ is deemed to include the period during which the individual is in a captive status; and

“(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

“(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

“(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

“(i) after that individual has been in captive status for 90 days or more, and

“(ii) on or before—

“(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

“(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance

under clause (ii) which is later than the date which would otherwise apply under such clause.

“(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual’s death.

“(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

“(E) For the purpose of this paragraph, ‘child’ means a dependent under section 5561(3)(B) of this title.

“(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

“(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

“(i) after the termination of that individual’s captive status, and

“(ii) on or before—

“(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

“(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

“(3) Assistance under this subsection—

“(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

“(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than fulltime education or training).

“(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

“(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

“(1) such family member is held in captive status; and

“(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

“(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

“(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

“(j) The President may prescribe regulations necessary to administer this section.

“(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

“§ 5570.⁵⁸ Compensation for disability or death

“(a) For the purpose of this section—

“(1) ‘employee’ means—

“(A) any individual in the Civil Service; and

“(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

“(2) ‘family member’, as used with respect to an employee, means—

“(A) any dependent of such employee; and

“(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee’s family or household.

“(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual’s relationship with the Government.

“(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

“(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

“(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

“(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

“(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.”

⁵⁸ Functions vested in the President by this section were delegated to the Secretary of State to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

“5569. Benefits for captives.

“5570. Compensation for disability or death.”

SEC. 804. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: “The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.”

SEC. 805. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, “pay and allowances” has the meaning provided under section 5561 of title 5, United States Code.

SEC. 806. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code is amended by adding at the end thereof the following new section:

“§ 559.⁵⁹ Benefits for members held as captives

“(a) In this section:⁶⁰

“(1) The term ‘captive status’ means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986,⁶¹ monetary payment in respect of such period of captivity.

⁵⁹Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

⁶⁰Sec. 8(e)(11) of Public Law 100-26 (101 Stat. 287) amended 37 U.S.C. 559 by (A) striking “In this section —” and inserting in lieu thereof “In this section:”; (B) inserting “The term” in para. (1) and (2); and (C) ending par. (1) with a period.

⁶¹Sec. 1484(d)(4) of Public Law 101-510 (104 Stat. 1717) amended title 37, sec. 559, by striking out “the date of the enactment of the Victims of Terrorism Compensation Act” and inserting in lieu thereof “August 27, 1986”.

“(2) The term ‘former captive’ means a person who, as a member of the uniformed services, was held in a captive status.

“(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

“(2) Amounts so allotted shall bear interest at a rate which for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

“(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

“(4) Any interest accruing under this subsection on—

“(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

“(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

“(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

“(c)(1) Except as provided in paragraph (3),⁶² the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

“(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note),⁶³ the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

“(3)(A) The President—

“(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

“(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

“(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

“(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

“(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

⁶²Sec. 702(b)(2) of Public Law 102-25 (105 Stat. 117) struck out “of this subsection” throughout title 37, U.S.C. (other than in sections 305a(d)(3), 431(a), and 501(f)).

⁶³Sec. 1484(e)(2) of Public Law 101-510 (104 Stat. 1717) amended title 37, sec. 559, by inserting the parenthetical citation.

“(i) committed by a person while the person is in a captive status; and

“(ii) related to the captive status of the person.

“(4) A payment under this subsection is in addition to any other amount provided by law.

“(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

“(6) Any payment made under paragraph (1)⁶² that is later denied under paragraph (3)(A)(ii)⁶² is a claim of the United States Government for purposes of section 3711 of title 31.

“(d) A determination by the President under subsection (a)(1) or (c)⁶⁴ is final and is not subject to judicial review.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“559. Benefits for members held as captives.”

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 1032.⁶⁵ Disability and death compensation: dependents of members held as captives

“(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

“(1) was caused by hostile action; and

“(2) was a result of the relationship of the dependent to the member of the uniformed services.

“(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program

⁶⁴Sec. 702(b)(1) of Public Law 102-25 (105 Stat. 117) struck out “of this section” throughout title 37, U.S.C. (other than in sections listed in sec. 702(c) of that Public Law).

⁶⁵Originally sec. 1051, title 10, this section was recodified as sec. 1032 by sec. 7(e)(1)(A) of Public Law 100-26 (101 Stat. 281).

Functions vested in the President by this section were delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

“(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

“(d) In this section:

“(1) The term ‘dependent’⁶⁶ has the meaning given that term in section 551 of title 37.⁶⁷

“(2) The term⁶⁶ ‘Secretary concerned’ has the meaning given that term⁶⁷ in section 101 of that title.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1032. Disability and death compensation: dependents of members held as captives.”.

(3) Section 1032 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 1095a.⁶⁸ Medical care: members held as captives and their dependents

“(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

“(1) is incident to the captive status; and

“(2) is not covered—

“(A) by any other Government medical or health program; or

“(B) by insurance.

“(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

“(c) In this section:

“(1) ‘captive status’⁶⁹ and ‘former captive’ have the meanings given those terms in section 559 of title 37.

“(2) ‘dependent’⁶⁹ has the meaning given that term in section 551 of that title.”.

⁶⁶Sec. 1622(e)(2) of Public Law 101-189 (103 Stat. 1605) inserted “The term” and made dependent lower case; and inserted “The term” after par. designation (2).

⁶⁷Sec. 1343(a)(25) of Public Law 99-661 substituted “title 37” for “that title” in par. (1); and struck out “and ‘uniformed services’ have the meanings given those terms” and inserted “has the meaning given that term” in par. (2).

⁶⁸Originally sec. 1095, title 10, this section was recodified as sec. 1095a by sec. 7(e)(2) of Public Law 100-26 (101 Stat. 281).

Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

⁶⁹Sec. 106(b)(1) of Public Law 100-526 struck “Captive status” and “Dependent” and inserted in lieu thereof “captive status” and “dependent”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1095a.⁶⁸ **Medical care: members held as captives and their dependents.**”.

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

“CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS⁷⁰”

“Sec.

“2181. Definitions.

“2182. Educational assistance: dependents of captives.

“2183. Educational assistance: former captives.

“2184. Termination of assistance.

“2185. Programs to be consistent with programs administered by the Department of Veterans Affairs.⁷¹”

“§ 2181. Definitions

“In this chapter:

“(1)⁷² The terms ‘captive status’ and ‘former captive’ have the meanings given those terms in section 559 of title 37.

“(2)⁷² The term ‘dependent’ has the meaning given that term in section 551 of that title.

“§ 2182. Educational assistance: dependents of captives

“(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

“(1) substance;

“(2) tuition;

“(3) fees;

“(4) supplies;

“(5) books;

“(6) equipment; and

“(7) other educational expenses.

“(b) Except as provided in section 2184 of this title, payments shall be available under this section for dependent of a person who is in a captive status for education or training that occurs—

“(1) after that person is in a captive status for not less than 90 days; and

⁷⁰ Functions vested in the President by this chapter of title 10 were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

⁷¹ Sec. 1621(a)(7)(A) of Public Law 101-189 (103 Stat. 1603) amended to read “Department of Veterans Affairs”. Formerly read “Veterans’ Administration”. The Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2635) established the Department of Veterans Affairs.

⁷² Sec. 7(k)(6) of Public Law 100-26 inserted “The terms” and “the term” after par. designations (1) and (2), and struck “Captive” and “Dependent” for “captive” and “dependent”.

“(2) on or before—

“(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

“(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the education or training institution is not operated on a semester or quarter system; or

“(C) a date specified by the Secretary concerned in order to respond to special circumstances.

“(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

“(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

“§ 2183. Educational assistance: former captives

“(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

“(1) substance;

“(2) tuition;

“(3) fees;

“(4) supplies;

“(5) books;

“(6) equipment; and

“(7) other educational expenses.

“(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

“(1) after the termination of the status of that person as a captive; and

“(2) on or before—

“(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

“(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

“(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

“§ 2184. Termination of assistance

“Assistance under this chapter—

“(1) shall be discounted for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 3524⁷³ of title 38; and

“(2) may not be provided for any person for more than 45 months (for the equivalent in other than full-time education or training).

“§ 2185. Programs to be consistent with programs administered by the Department of Veterans Affairs⁷¹

“Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.”

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

“110. Educational Assistance for Members Held as Captives and Their Dependents 2181”.

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1) shall apply with respect to persons whose captive status begins after January 21, 1981.

(e) ACCOUNT USED FOR PAYMENT OF COMPENSATION FOR VICTIMS OF TERRORISM.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end thereof the following new section:

“§ 1013. Payment of compensation for victims of terrorism

“Any benefit or payment pursuant to section 559 of this title, or section 1051 or 1095a⁷⁴ or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1013. Payment of compensation for victims of terrorism.”

SEC. 807. REGULATIONS.

Any regulation required by this title or by any amendment made by this title shall take effect not later than 6 months after the date of enactment of this Act.

SEC. 808. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

TITLE IX—MARITIME SECURITY

SEC. 901. SHORT TITLE.

This title may be cited as the “International Maritime and Port Security Act”.

⁷³Sec. 1070(e)(7) of Public Law 103-337 (108 Stat. 2859) amended 10 U.S.C. 2184(1) by striking out “sec. 1724” and inserting in lieu thereof “section 3524”.

⁷⁴Sec. 1484(h)(6) of Public Law 101-510 (104 Stat. 1718) amended title 37, sec. 1013, by striking “or 1095” and inserting “or 1095a”.

SEC. 902.⁷⁵ INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY.

The Congress encourages the President to continue to seek agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security measures and could include—

- (1) seaport screening of cargo and baggage similar to that done at airports;
- (2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;
- (3) additional security on board vessels;
- (4) licensing or certification of compliance with appropriate security standards; and
- (5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. 903. MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) **REPORT ON PROGRESS OF IMO.**—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by February 28, 1987, on the progress of the International Maritime Organization in developing recommendations on Measures to prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) **CONTENT OF REPORT.**—The report required by subsection (a) shall include the following information—

- (1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;
- (2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee of the International Maritime Organization in regard to the proposed recommendations; and
- (3) the security measures specified in the recommendations.

(c) **SECURITY MEASURES AT UNITED STATES PORTS.**—If the member nations of the International Maritime Organization have not finalized and accepted the proposed recommendations by February 28, 1987, the Secretary of Transportation shall include in the report required by this section a proposed plan of action (including proposed legislation if necessary) for the implementation of security measures at United States ports and on vessels operating from those parts based on the assessment of threat from acts of terrorism reported by the Secretary of Transportation under section 905.

SEC. 904. PANAMA CANAL SECURITY.

Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the status of physical security at the Panama Canal with respect to the threat of terrorism.

⁷⁵46 U.S.C. app. 1801.

SEC. 905.⁷⁶ THREAT OF TERRORISM TO UNITED STATES PORTS AND VESSELS.

Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report to the Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports.

SEC. 906. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting after section 6 of the following new section:

“Sec. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

“(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

“(1) an individual, vessel, or public or commercial structure, that is—

“(A) subject to the jurisdiction of the United States; and

“(B) located within or adjacent to the marine environment; or

“(2) a vessel of the United States or an individual on board that vessel.

“(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—

“(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and

“(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.”.

SEC. 907.⁷⁷ SECURITY STANDARDS AT FOREIGN PORTS.

(a) ASSESSMENT OF SECURITY MEASURES.—The Secretary of Transportation shall develop and implement a plan to assess the effectiveness of the security measures maintained at those foreign ports which the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism directed against passenger vessels.

(b) CONSULTATION WITH THE SECRETARY OF STATE.—In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country and poses a high risk of acts of terrorism directed against passenger vessels.

(c) REPORT OF ASSESSMENTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the plan developed pursuant to subsection (a) and how the Secretary will implement the plan.

(d) DETERMINATION AND NOTIFICATION TO FOREIGN COUNTRY.—If, after implementing the plan in accordance with subsection (a), the Secretary of Transportation determines that a port does not maintain and administer effective security measures, the Secretary

⁷⁶ 46 U.S.C. app. 1802.

⁷⁷ 46 U.S.C. app. 1803.

of State (after being informed by the Secretary of Transportation) shall notify the appropriate government authorities of the country in which the port is located of such determination, and shall recommend the steps necessary to bring the security measures in use at that port up to the standard used by the Secretary of Transportation in making such assessment.

(e) **ANTITERRORISM ASSISTANCE RELATED TO MARITIME SECURITY.**—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 to foreign countries, especially with respect to a port which the Secretary of Transportation determines under subsection (d) does not maintain and administer effective security measures.

SEC. 908.⁷⁸ TRAVEL ADVISORIES CONCERNING SECURITY AT FOREIGN PORTS.

(a) **TRAVEL ADVISORY.**—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary of Transportation has determined pursuant to section 907(d) to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that port. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) **LIFTING OF TRAVEL ADVISORY.**—The travel advisory required to be issued under subsection (a) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination described in section 907(d).

(c) **NOTIFICATION TO CONGRESS.**—The Secretary of State shall immediately notify the Congress of any change in the status of a travel advisory imposed pursuant to this section.

SEC. 909.⁷⁹ SUSPENSION OF PASSENGER SERVICES.

(a) **PRESIDENT'S DETERMINATION.**—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, any terrorist or terrorist group which knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may, without notice or hearing and for as long as the President determines necessary to assure the security of passenger vessels against unlawful seizure, suspend the right of any passenger vessel common carrier to operate to and from, and the right of any passenger vessel of the United States to utilize, any port in that foreign nation for passenger service.

(b) **PROHIBITION.**—It shall be unlawful for any passenger vessel common carrier, or any passenger vessel of the United States, to

⁷⁸ 46 U.S.C. app. 1804.

⁷⁹ 46 U.S.C. app. 1805.

operate in violation of the suspension of rights by the President under this section.

(c) PENALTY.—(1) If a person operates a vessel in violation of this section, the Secretary of the department in which the Coast Guard is operating may deny the vessels of that person entry to United States ports.

(2) A person violating this section is liable to the United States Government for a civil penalty of not more than \$50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

SEC. 910.⁸⁰ SANCTIONS FOR THE SEIZURE OF VESSELS BY TERRORISTS.

The Congress encourages the President—

(1) to review the adequacy of domestic and international sanctions against terrorists who seize or attempt to seize vessels; and

(2) to strengthen where necessary, through bilateral and multilateral efforts, the effectiveness of such sanctions.

Not later than one year after the date of enactment of this Act, the President shall submit a report to the Congress which includes the review of such sanctions and the efforts to improve such sanctions.

SEC. 911.⁸¹ DEFINITIONS.

For purposes of this title—

(1) the term “common carrier” has the same meaning given such term in section 3(6) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)); and

(2) the terms “passenger vessel” and “vessel of the United States” have the same meaning given such terms in section 2102 of title 46, United States Code.

SEC 912.⁸² AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$12,500,000 for each of the fiscal years 1987 through 1991, to be available to the Secretary of Transportation to carry out this title.

SEC. 913.⁸³ REPORTS.

(a) CONSOLIDATION.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) SUBMISSION TO COMMITTEES.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives⁸⁴ and the Com-

⁸⁰ 46 U.S.C. app. 1806.

⁸¹ 46 U.S.C. app. 1807.

⁸² 46 U.S.C. app. 1808.

⁸³ 46 U.S.C. app. 1809.

⁸⁴ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

The House Committee on Merchant Marine and Fisheries was abolished in the 104th Congress, and sec. 1(b)(3) of Public Law 104-14 (109 Stat. 186) stated the following:

“(3) the Committee on Merchant Marine and Fisheries of the House of Representatives shall be treated as referring to—

mittee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

TITLE X—FASCELL FELLOWSHIP PROGRAM ⁸⁵

* * * * *

TITLE XI—SECURITY AT MILITARY BASES ABROAD

SEC. 1101.⁸⁶ FINDINGS.

The Congress finds that—

- (1) there is evidence that terrorists consider bases and installations of United States Armed Forces outside the United States to be targets for attack;
- (2) more attention should be given to the protection of members of the Armed Forces, and members of their families, stationed outside the United States; and
- (3) current programs to educate members of the Armed Forces, and members of their families, stationed outside of the United States to the threats of terrorist activity and how to protect themselves should be substantially expanded.

SEC. 1102.⁸⁶ RECOMMENDED ACTIONS BY THE SECRETARY OF DEFENSE.

It is the sense of the Congress that—

- (1) the Secretary of Defense should review the security of each base and installation of the Department of Defense outside the United States, including the family housing and support activities of each such base or installation, and take the steps the Secretary considers necessary to improve the security of such bases and installations; and
- (2) the Secretary of Defense should institute a program of training for members of the Armed Forces, and for members of their families, stationed outside the United States concerning security and antiterrorism.

SEC. 1103.⁸⁶ REPORT TO THE CONGRESS.

Not later than June 30, 1987, the Secretary of Defense shall report to the Congress on any actions taken by the Secretary described in section 1102.

⁸⁵(A) the Committee on Agriculture of the House of Representatives, in the case of a provision of law relating to inspection of seafood or seafood products;

⁸⁵(B) the Committee on National Security of the House of Representatives, in the case of a provision of law relating to interoceanic canals, the Merchant Marine Academy and State Maritime Academies, or national security aspects of merchant marine;

⁸⁵(C) the Committee on Resources of the House of Representatives, in the case of a provision of law relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography;

⁸⁵(D) the Committee on Science of the House of Representatives, in the case of a provision of law relating to marine research; and

⁸⁵(E) the Committee on Transportation and Infrastructure of the House of Representatives, in the case of a provision of law relating to a matter other than a matter described in any of subparagraphs (A) through (D)."

⁸⁵The Fascell Fellowship Act provided fellowships to United States citizens while they serve in positions formerly held by foreign national employees at United States diplomatic or consular missions abroad. For text, see page 1412.

⁸⁶10 U.S.C. 133 note.

TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL
TERRORISM

SEC. 1201. ENCOURAGEMENT FOR NEGOTIATION OF A CONVENTION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should establish a process encourage the negotiation of an international convention to prevent and control all aspects of international terrorism.

(b) RELATION TO EXISTING INTERNATIONAL CONVENTIONS.—Such convention should address the prevention and control of international terrorism in a comprehensive fashion, taking into consideration matters not covered by—

(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970; 22 U.S.T. 1641, TIAS 7192);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971; 24 U.S.T. 564, TIAS 7570);

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (New York, December 14, 1973; 28 U.S.T. 1975, TIAS 8532);

(4) the Convention Against the Taking of Hostages (New York, December 17, 1979; XVIII International Legal Materials 1457);

(5) the Convention on the Physical Protection of Nuclear Materials (October 26, 1979; XVIII International Legal Materials 1419); and

(6) the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, September 14, 1963; 20 U.S.T. 2941, TIAS 6768).

(c) WHAT THE CONVENTION SHOULD PROVIDE.—Such convention should provide—

(1) an explicit definition of conduct constituting terrorism;

(2) effective close intelligence-sharing, joint counterterrorist training, and uniform rules for asylum and extradition for perpetrators of terrorism; and

(3) effective criminal penalties for the swift punishment of perpetrators of terrorism.

(d) CONSIDERATION OF AN INTERNATIONAL TRIBUNAL.—The President should also consider including on the agenda for these negotiations the possibility of eventually establishing an international tribunal for prosecuting terrorists.

SEC. 1202.⁸⁷ EXTRATERRITORIAL CRIMINAL JURISDICTION OVER TERRORIST CONDUCT. * * *

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TITLE XIII—MISCELLANEOUS PROVISIONS

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SEC. 1302. DEMONSTRATIONS AT EMBASSIES IN THE DISTRICT OF COLUMBIA.

It is the sense of the Congress that—

⁸⁷Sec. 1202 added a new chapter 113A to title 18, U.S.C. (redesignated as chapter 113B).

(1) the District of Columbia law concerning demonstrations near foreign missions in the District of Columbia (D.C. Code, sec. 22-1115) may be inconsistent with the reasonable exercise of the rights of free speech and assembly, that law may have been selectively enforced, and peaceful demonstrations may have been unfairly arrested under that law;

(2) the obligation of the United States to provide adequate security for the missions and personnel of foreign governments must be balanced with the reasonable exercise of the rights of free speech and assembly; and

(3) therefore, the Council of the District of Columbia should review and, if appropriate, make revisions in the laws of the District of Columbia concerning demonstrations near foreign missions, in consultations with the Secretary of State and the Secretary of the Treasury.

SEC. 1303. KURT WALDHEIM'S RETIREMENT ALLOWANCE.

(a) FINDINGS.—The Congress finds that—

(1) Kurt Waldheim's misrepresentations about his past enabled him to rise to the position of Secretary General of the United Nations;

(2) Kurt Waldheim currently receives \$81,650 a year as a retirement allowance for his service in that position; and

(3) Kurt Waldheim's misrepresentations went to matters that lie at the very heart of the purposes of the United Nations.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to act to amend the 1986-1987 Regular Program Budget to eliminate funding of Kurt Waldheim's retirement allowance and to act to deny Kurt Waldheim a retirement allowance in all future budgets.

* * * * *

SEC. 1305. STRENGTHENING FOREIGN LANGUAGE SKILLS.

It is the sense of the Congress that the Secretary of State should substantially strengthen the foreign language training of Foreign Service officers and other United States diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills the careers of United States diplomatic personnel.

SEC. 1306. FORFEITURE OF PROCEEDS DERIVED FROM ESPIONAGE ACTIVITIES.

(a) GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.—Section 793 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(h)(1) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, from any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, as the result of such violation.

“(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

“(3) The provisions of subsections (b), (c), and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(o)) shall apply to—

“(A) property subject to forfeiture under this subsection;

“(B) any seizure or disposition of such property; and

“(C) any administrative or judicial proceeding in relation to such property,

if not consistent with this subsection.

“(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.”

(b) GATHERING OR DELIVERING DEFENSE INFORMATION TO AID FOREIGN GOVERNMENT.—Section 794 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

“(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation, and

“(B) any of the person’s property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

“(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

“(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(o)) shall apply to—

“(A) property subject to forfeiture under this subsection;

“(B) any seizure or disposition of such property; and

“(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

“(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amount from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.”

(c) ORDER OF SPECIAL FORFEITURE.—Subsection (a) of section 3671 of title 18, United States Code, is amended by inserting after “conviction of a defendant for” the following: “an offense under section 794 of this title or for”.

SEC. 1307. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State,

the United States Agency for International Development, or the United States Information Agency from participation in support of any activities of the United States Telecommunications Training Institute (including use of staff, other appropriate resources and service of the board of the Institute).

SEC. 1308. POLICY TOWARD AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that “whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged” and that the “Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations” including “use of antipersonnel mines and of so-called toy bombs” and “the indiscriminate mass killings of civilians, particularly women and children”;

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by “the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units” and that the “demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul”;

(5) the United Nations General Assembly, in a recorded vote of 80–22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed “profound distress and alarm” at “the widespread violations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime’s opponents, as well as increasing evidence of a policy of religious intolerance”;

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that “The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops” and that “Continuation of the military solution will, in the opinion of the Special Rapporteur,

lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit”;

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that “America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom”.

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to deter-

mine whether such recognition is in the interest of the United States.

c. Payment of Certain Anti-Terrorism Judgments

Partial text of Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000

AN ACT To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Victims of Trafficking and Violence Protection Act of 2000”.

* * * * *

DIVISION C—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 2002. PAYMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.

(a) PAYMENTS.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Treasury shall pay each person described in paragraph (2), at the person’s election—

(A) 110 percent of compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest under section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000), subject to final appellate review of that order; or

(B) 100 percent of the compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest, as provided in section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected June 2, 2000), subject to final appellate review of that order.

Payments under this subsection shall be made promptly upon request.

(2) PERSONS COVERED.—A person described in this paragraph is a person who—

¹ 22 U.S.C. 7101 note.

(A)(i) as of July 20, 2000, held a final judgment for a claim or claims brought under section 1605(a)(7) of title 28, United States Code, against Iran or Cuba, or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims; or

(ii) filed a suit under such section 1605(a)(7) on February 17, 1999, December 13, 1999, January 28, 2000, March 15, 2000, or July 27, 2000;

(B) relinquishes all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments;

(C) in the case of payment under paragraph (1)(A), relinquishes all rights and claims to punitive damages awarded in connection with such claim or claims; and

(D) in the case of payment under paragraph (1)(B), relinquishes all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.

(b) FUNDING OF AMOUNTS.—

(1) JUDGMENTS AGAINST CUBA.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against the Government of Cuba or Cuban entities, the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. For the purposes of paying amounts for judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba.

(2) JUDGMENTS AGAINST IRAN.—For purposes of funding payments under subsection (a) in the case of judgments against Iran, the Secretary of the Treasury shall make such payments from amounts paid and liquidated from—

(A) rental proceeds accrued on the date of the enactment of this Act from Iranian diplomatic and consular property located in the United States; and

(B) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of the enactment of this Act.

(c) SUBROGATION.—Upon payment under subsection (a) with respect to payments in connection with a Foreign Military Sales Program account, the United States shall be fully subrogated, to the extent of the payments, to all rights of the person paid under that subsection against the debtor foreign state. The President shall pursue these subrogated rights as claims or offsets of the United States in appropriate ways, including any negotiation process

which precedes the normalization of relations between the foreign state designated as a state sponsor of terrorism and the United States, except that no funds shall be paid to Iran, or released to Iran, from property blocked under the International Emergency Economic Powers Act or from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should not normalize relations between the United States and Iran until the claims subrogated have been dealt with to the satisfaction of the United States.

(e) REAFFIRMATION OF AUTHORITY.—Congress reaffirms the President's statutory authority to manage and, where appropriate and consistent with the national interest, vest foreign assets located in the United States for the purposes, among other things, of assisting and, where appropriate, making payments to victims of terrorism.

(f) AMENDMENTS.—(1) Section 1610(f) of title 28, United States Code, is amended— * * *

(2) Subsections (b) and (d) of section 117 of the Treasury Department Appropriations Act, 1999 (as contained in section 101(h) of Public Law 105-277) are repealed.²

SEC. 2003. AID FOR VICTIMS OF TERRORISM.

(a) MEETING THE NEEDS OF VICTIMS OF TERRORISM OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Section 1404B(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)) is amended as follows:

“(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE UNITED STATES.—

“(1) IN GENERAL.—The Director may make supplemental grants as provided in 1402(d)(5) to States, victim service organizations, and public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring outside the United States who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

“(2) VICTIM DEFINED.—In this subsection, the term ‘victim’—

“(A) means a person who is a national of the United States or an officer or employee of the United States Government who is injured or killed as a result of a terrorist act or mass violence occurring outside the United States; and

“(B) in the case of a person described in subparagraph (A) who is less than 18 years of age, incompetent, incapacitated, or deceased, includes a family member or legal guardian of that person.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to allow the Director to make grants to any

²28 U.S.C. 1606, 1610 note.

foreign power (as defined by section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) or to any domestic or foreign organization operated for the purpose of engaging in any significant political or lobbying activities.”.

(2)³ APPLICABILITY.—The amendment made by this subsection shall apply to any terrorist act or mass violence occurring on or after December 21, 1988, with respect to which an investigation or prosecution was ongoing after April 24, 1996.

(3)³ ADMINISTRATIVE PROVISION.—Not later than 90 days after the date of the enactment of this Act, the Director shall establish guidelines under section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(a)) to specify the categories of organizations and agencies to which the Director may make grants under this subsection.

(4) TECHNICAL AMENDMENT.—Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended * * *

(b) AMENDMENTS TO EMERGENCY RESERVE FUND.—

(1) CAP INCREASE.—Section 1402(d)(5)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(A)) is amended by striking “\$50,000,000” and inserting “\$100,000,000”.

(2) TRANSFER.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended by striking “in excess of \$500,000” and all that follows through “than \$500,000” and inserting “shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) at the discretion of the Director. Any remaining unobligated sums”.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.—

(1) IN GENERAL.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404B the following:

“SEC. 1404C.⁴ COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.

“(a) DEFINITIONS.—In this section:

“(1) INTERNATIONAL TERRORISM.—The term ‘international terrorism’ has the meaning given the term in section 2331 of title 18, United States Code.

“(2) NATIONAL OF THE UNITED STATES.—The term ‘national of the United States’ has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

“(3) VICTIM.—

“(A) IN GENERAL.—The term ‘victim’ means a person who—

“(i) suffered direct physical or emotional injury or death as a result of international terrorism occurring on or after December 21, 1988 with respect to which an investigation or prosecution was ongoing after April 24, 1996; and

“(ii) as of the date on which the international terrorism occurred, was a national of the United States or

³ 42 U.S.C. 10603b note.

⁴ 42 U.S.C. 10603c.

an officer or employee of the United States Government.

“(B) INCOMPETENT, INCAPACITATED, OR DECEASED VICTIMS.—In the case of a victim who is less than 18 years of age, incompetent, incapacitated, or deceased, a family member or legal guardian of the victim may receive the compensation under this section on behalf of the victim.

“(C) EXCEPTION.—Notwithstanding any other provision of this section, in no event shall an individual who is criminally culpable for the terrorist act or mass violence receive any compensation under this section, either directly or on behalf of a victim.

“(b) AWARD OF COMPENSATION.—The Director may use the emergency reserve referred to in section 1402(d)(5)(A) to carry out a program to compensate victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization.

“(c) ANNUAL REPORT.—The Director shall annually submit to Congress a report on the status and activities of the program under this section, which report shall include—

“(1) an explanation of the procedures for filing and processing of applications for compensation;

“(2) a description of the procedures and policies instituted to promote public awareness about the program;

“(3) a complete statistical analysis of the victims assisted under the program, including—

“(A) the number of applications for compensation submitted;

“(B) the number of applications approved and the amount of each award;

“(C) the number of applications denied and the reasons for the denial;

“(D) the average length of time to process an application for compensation; and

“(E) the number of applications for compensation pending and the estimated future liability of the program; and

“(4) an analysis of future program needs and suggested program improvements.”

(2) CONFORMING AMENDMENT.—Section 1402(d)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(B)) is amended by inserting “, to provide compensation to victims of international terrorism under the program under section 1404C,” after “section 1404B”.

(d) AMENDMENTS TO VICTIMS OF CRIME FUND.—Section 1402(c) of the Victims of Crime Act 1984 (42 U.S.C. 10601(c)) is amended by adding at the end the following: “Notwithstanding section 1402(d)(5), all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.”

* * * * *

**d. National Terrorist Asset Tracking Center—
Appropriations**

Partial text of Public Law 106-346 [Department of Transportation and Related Agencies Appropriations, 2001; H.R. 5394, enacted by reference in H.R. 4475], 114 Stat. 1356A-1, approved October 23, 2001

AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

* * * * *

TITLE V

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount in support of the Nation's counterterrorism efforts, \$6,424,000: *Provided*, That these funds shall be for establishing a new interagency National Terrorist Asset Tracking Center in the Office of Foreign Assets Control: *Provided further*, That these funds maybe used to reimburse any Department of the Treasury organization for costs of providing support for this effort.

* * * * *

**e. Secure Embassy Construction and Counterterrorism Act
of 1999**

Partial text of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public
Law 106-113, 113 Stat. 1536, approved November 29, 1999

**TITLE VI—EMBASSY SECURITY AND
COUNTERTERRORISM MEASURES**

SEC. 601.¹ SHORT TITLE.

This title may be cited as the “Secure Embassy Construction and Counterterrorism Act of 1999”.

SEC. 602.² FINDINGS.

Congress makes the following findings:

(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

(4) Threats continue to be made against United States diplomatic facilities.

(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99-399, chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the “Crowe panels”).

(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report in 1985.

(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

¹ 22 U.S.C. 4801 note.

² 22 U.S.C. 4865 note.

(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

(B) The United States Government places too low a priority on security concerns.

(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks.

SEC. 603.² UNITED STATES DIPLOMATIC FACILITY DEFINED.

In this title, the terms “United States diplomatic facility” and “diplomatic facility” mean any chancery, consulate, or other office notified to the host government as diplomatic or consular premises in accordance with the Vienna Conventions on Diplomatic and Consular Relations, or otherwise subject to a publicly available bilateral agreement with the host government (contained in the records of the United States Department of State) that recognizes the official status of the United States Government personnel present at the facility.

SEC. 604.² AUTHORIZATIONS OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated by this or any other Act, there are authorized to be appropriated for “Embassy Security, Construction and Maintenance”—

(1) for fiscal year 2000, \$900,000,000;

(2) for fiscal year 2001, \$900,000,000;

(3) for fiscal year 2002, \$900,000,000;

(4) for fiscal year 2003, \$900,000,000; and

(5) for fiscal year 2004, \$900,000,000.

(b) **PURPOSES.**—Funds made available under the “Embassy Security, Construction, and Maintenance” account may be used only for the purposes of—

(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

(2) the provision of major security enhancements to United States diplomatic facilities,

to the extent necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 606.

(c) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SEC. 605.² OBLIGATIONS AND EXPENDITURES.

(a) REPORT AND PRIORITY OF OBLIGATIONS.—

(1) REPORT.—Not later than February 1 of the year 2000 and each of the four subsequent years, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility or each diplomatic or consular post composed of such facilities that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20. The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

(2) PRIORITY ON USE OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated by section 604 for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

(B) EXCEPTION.—Funds authorized to be made available by section 604 may only be used for facilities which are not in the first 4 groups described in paragraph (1), if the Congress authorizes or appropriates funds for such a diplomatic facility or the Secretary of State notifies the appropriate congressional committees that such funds will be used for a facility in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

(b) PROHIBITION ON TRANSFER OF FUNDS.—None of the funds authorized to be appropriated by section 604 may be transferred to any other account.

(c) SEMIANNUAL REPORTS ON ACQUISITION AND MAJOR SECURITY UPGRADES.—On June 1 and December 1 of each year, the Secretary of State shall submit a report to the appropriate congressional committees on the embassy construction and security program authorized under this title. The report shall include—

(1) obligations and expenditures—

(A) during the previous two fiscal quarters; and

(B) since the enactment of this Act;

(2) projected obligations and expenditures for the fiscal year in which the report is submitted and how these obligations and expenditures will improve security conditions of specific diplomatic facilities; and

(3) the status of ongoing acquisition and major security enhancement projects, including any significant changes in—

(A) the budgetary requirements for such projects;

(B) the schedule of such projects; and

(C) the scope of the projects.

SEC. 606.² SECURITY REQUIREMENTS FOR UNITED STATES DIPLOMATIC FACILITIES.

(a) **IN GENERAL.**—The following security requirements shall apply with respect to United States diplomatic facilities and specified personnel:

(1) **THREAT ASSESSMENT.**—

(A) **EMERGENCY ACTION PLAN.**—The Emergency Action Plan (EAP) of each United States mission shall address the threat of large explosive attacks from vehicles and the safety of employees during such an explosive attack. Such plan shall be reviewed and updated annually.

(B) **SECURITY ENVIRONMENT THREAT LIST.**—The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.

(2) **SITE SELECTION.**—

(A) **IN GENERAL.**—In selecting a site for any new United States diplomatic facility abroad, the Secretary shall ensure that all United States Government personnel at the post (except those under the command of an area military commander) will be located on the site.

(B) **WAIVER AUTHORITY.**—

(i) **IN GENERAL.**—Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary, together with the head of each agency employing personnel that would not be located at the site, determine that security considerations permit and it is in the national interest of the United States.

(ii) **CHANCERY OR CONSULATE BUILDING.**—

(I) **AUTHORITY NOT DELEGABLE.**—The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.

(II) **CONGRESSIONAL NOTIFICATION.**—Not less than 15 days prior to implementing the waiver authority under clause (i) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) **REPORT TO CONGRESS.**—The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.

(3) **PERIMETER DISTANCE.**—

(A) **REQUIREMENT.**—Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.

- (B) WAIVER AUTHORITY.—
- (i) IN GENERAL.—Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary determines that security considerations permit and it is in the national interest of the United States.
- (ii) CHANCERY OR CONSULATE BUILDING.—
- (I) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.
- (II) CONGRESSIONAL NOTIFICATION.—Not less than 15 days prior to implementing the waiver authority under subparagraph (A) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.
- (iii) REPORT TO CONGRESS.—The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.
- (4) CRISIS MANAGEMENT TRAINING.—
- (A) TRAINING OF HEADQUARTERS STAFF.—The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.
- (B) TRAINING OF PERSONNEL ABROAD.—A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad at least on an annual basis.
- (5) DIPLOMATIC SECURITY TRAINING.—Not later than six months after the date of the enactment of this Act, the Secretary of State shall—
- (A) develop annual physical fitness standards for all diplomatic security agents to ensure that the agents are prepared to carry out all of their official responsibilities; and
- (B) provide for an independent evaluation by an outside entity of the overall adequacy of current new agent, in-service, and management training programs to prepare agents to carry out the full scope of diplomatic security responsibilities, including preventing attacks on United States personnel and facilities.
- (6) STATE DEPARTMENT SUPPORT.—
- (A) FOREIGN EMERGENCY SUPPORT TEAM.—The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—
- (i) conducting routine training exercises of the FEST;
- (ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST AIRCRAFT.—

(i) **REPLACEMENT AIRCRAFT.—**The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense with a dedicated, capable, and reliable replacement aircraft and backup aircraft to be operated and maintained by the Department of Defense.

(ii) **REPORT.—**Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of such aircraft.

(iii) **AUTHORITY TO LEASE AIRCRAFT TO RESPOND TO A TERRORIST ATTACK ABROAD.—**Subject to the availability of appropriations, when the Attorney General of the Department of Justice exercises the Attorney General's authority to lease commercial aircraft to transport equipment and personnel in response to a terrorist attack abroad if there have been reasonable efforts to obtain appropriate Department of Defense aircraft and such aircraft are unavailable, the Attorney General shall have the authority to obtain indemnification insurance or guarantees if necessary and appropriate.

(7) RAPID RESPONSE PROCEDURES.—The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities.

(8) STORAGE OF EMERGENCY EQUIPMENT AND RECORDS.—All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) STATUTORY CONSTRUCTION.—Nothing in this section alters or amends existing security requirements not addressed by this section.

SEC. 607. REPORT ON OVERSEAS PRESENCE.

(a) REVIEW.—The Secretary of State shall review the findings of the Overseas Presence Advisory Panel of the Department of State.

(b) REPORT.—

(1) IN GENERAL.—Not later than 120 days after submission of the Overseas Presence Advisory Panel Report, the Secretary of State shall submit a report to the appropriate congressional

committees setting forth the results of the review conducted under subsection (a).

(2) ELEMENTS OF THE REPORT.—To the extent not addressed by the review described in subsection (a), the report shall also—

(A) specify whether any United States diplomatic facility should be closed because—

(i) the facility is highly vulnerable and subject to threat of terrorist attack; and

(ii) adequate security enhancements cannot be provided to the facility;

(B) in the event that closure of a diplomatic facility is required, identify plans to provide secure premises for permanent use by the United States diplomatic mission, whether in country or in a regional United States diplomatic facility, or for temporary occupancy by the mission in a facility pending acquisition of new buildings;

(C) outline the potential for reduction or transfer of personnel or closure of missions if technology is adequately exploited for maximum efficiencies;

(D) examine the possibility of creating regional missions in certain parts of the world;

(E) in the case of diplomatic facilities that are part of the Special Embassy Program, report on the foreign policy objectives served by retaining such missions, balancing the importance of these objectives against the well-being of United States personnel; and

(F) examine the feasibility of opening new regional outreach centers, modeled on the system used by the United States Embassy in Paris, France, with each center designed to operate—

(i) at no additional cost to the United States Government;

(ii) with staff consisting of one or two Foreign Service officers currently assigned to the United States diplomatic mission in the country in which the center is located; and

(iii) in a region of the country with high gross domestic product (GDP), a high density population, and a media market that not only includes but extends beyond the region.

SEC. 608. ACCOUNTABILITY REVIEW BOARDS.

Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831) is amended to read as follows: * * *

SEC. 609. INCREASED ANTI-TERRORISM TRAINING IN AFRICA.

Not later than six months after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, shall submit a report to the appropriate congressional committees on a proposed operational plan and site selection to expeditiously establish an International Law Enforcement Academy (ILEA) on the continent of Af-

rica in order to increase training and cooperation on the continent in anti-terrorism and transnational crime fighting.

f. Information on Violent Crimes Abroad

Partial text of Public Law 105-107 [Intelligence Authorization Act for Fiscal Year 1998; S. 858], 111 Stat. 2248, approved November 20, 1997

AN ACT To authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1998”.

(b) TABLE OF CONTENTS.— * * *

* * * * *

TITLE III—GENERAL PROVISIONS

* * * * *

SEC. 307¹ PROVISION OF INFORMATION ON CERTAIN VIOLENT CRIMES ABROAD TO VICTIMS AND VICTIMS’ FAMILIES.

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

(1) it is in the national interests of the United States to provide information regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad to the victims of such crimes, or the families of victims of such crimes if they are United States citizens; and

(2) the provision of such information is sufficiently important that the discharge of the responsibility for identifying and disseminating such information should be vested in a cabinet-level officer of the United States Government.

(b) RESPONSIBILITY.—The Secretary of State shall take appropriate actions to ensure that the United States Government takes all appropriate actions to—

(1) identify promptly information (including classified information) in the possession of the departments and agencies of the United States Government regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad; and

(2) subject to subsection (c), promptly make such information available to—

(A) the victims of such crimes; or

(B) when appropriate, the family members of the victims of such crimes if such family members are United States citizens.

¹ 22 U.S.C. 2715a.

(c) LIMITATIONS.—The Secretary shall work with the heads of appropriate departments and agencies of the United States Government in order to ensure that information relevant to a crime covered by subsection (b) is promptly reviewed and, to the maximum extent practicable, without jeopardizing sensitive sources and methods or other vital national security interests, or without jeopardizing an on-going criminal investigation or proceeding, made available under that subsection unless such disclosure is specifically prohibited by law.

* * * * *

**g. Sense of Senate Regarding Acts of International
Terrorism**

**Partial text of Public Law 104-264 [Federal Aviation Reauthorization Act
of 1996; H.R. 3539], 110 Stat. 3213, approved October 9, 1996**

AN ACT To amend title 49, United States Code, to reauthorize programs of the
Federal Aviation Administration, and for other purposes.

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

TITLE III—AVIATION SECURITY

* * * * *

**SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTER-
NATIONAL TERRORISM.**

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and
disregard for human life among nations that are willing to ex-
port terrorism;

(2) there has been an increase in attempts by criminal ter-
rorists to murder airline passengers through the destruction of
civilian airliners and the deliberate fear and death inflicted
through bombings of buildings and the kidnapping of tourists
and Americans residing abroad; and

(3) information widely available demonstrates that a signifi-
cant portion of international terrorist activity is state-spon-
sored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if
evidence establishes beyond a clear and reasonable doubt that any
act of hostility towards any United States citizen was an act of
international terrorism sponsored, organized, condoned, or directed
by any nation, a state of war should be considered to exist or to
have existed between the United States and that nation, beginning
as of the moment that the act of aggression occurs.

* * * * *

h. Antiterrorism and Effective Death Penalty Act of 1996

Partial text of Public Law 104-132 [S. 735], 110 Stat. 1214, approved April 24, 1996

NOTE.—Except for the provisions noted below, the Antiterrorism and Effective Death Penalty Act of 1996 amends other legislation and has been incorporated into those laws, or consists of legislation not generally related to foreign policy. Complete text of the Act may be found at 110 Stat. 1214.

AN ACT To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Antiterrorism and Effective Death Penalty Act of 1996”.

SEC. 2. TABLE OF CONTENTS.

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

* * * * *

TITLE II—JUSTICE FOR VICTIMS

* * * * *

SUBTITLE B—JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES

SEC. 221.¹ JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES. * * *

SUBTITLE C—ASSISTANCE TO VICTIMS OF TERRORISM

SEC. 231. SHORT TITLE.

This subtitle may be cited as the “Justice for Victims of Terrorism Act of 1996”.

¹Sec. 221 amended 28 USC 1605 and 1610, relating to foreign sovereign immunity. See page 2271.

SEC. 232. VICTIMS OF TERRORISM ACT. * * *²

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM. * * *³

* * * * *

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

SUBTITLE A—PROHIBITION ON INTERNATIONAL TERRORIST FUNDRAISING

SEC. 301.⁴ FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) **PURPOSE.**—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

²Sec. 232(a) added sec. 1404B to the Victims of Crime Act of 1984, relating to compensation and assistance to victims of terrorism or mass violence, codified at 42 U.S.C. 10603b. That section was amended and restated by Public Law 106-386; see page 945.

³Sec. 233 amended sec. 1403(b) of the Victims of Crime Act of 1984, relating to compensation of victims of terrorism. That section was amended and restated by Public Law 106-386; see page 945.

⁴18 U.S.C. 2339B note.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following: * * *⁵

(b) * * *

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section: * * *⁶

(b) * * *

(c) * * *

SUBTITLE B—PROHIBITION ON ASSISTANCE TO TERRORIST STATES

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section: * * *⁷

(b) * * *

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows: * * *⁸

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows: * * *⁹

SEC. 324.¹⁰ FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

⁵ Sec. 302 added a new sec. 219 (8 U.S.C. 1189), relating to the designation of foreign terrorist organizations, to the Immigration and Nationality Act.

⁶ Sec. 303(a) added a new sec. 2339B to 18 U.S.C., relating to providing material support or resources to designated foreign terrorist organizations; see page 891. Subsecs. (b) and (c) made technical amendments to 18 U.S.C.

⁷ Sec. 321(a) added a new sec. 2332d to 18 U.S.C., relating to financial transactions with terrorists. Subsec. (b) made a technical amendment to the same title.

⁸ Sec. 322 amended and restated 49 U.S.C. 44906, relating to foreign air carrier security programs. See *Legislation on Foreign Relations Through 2001*, vol. IV.

⁹ Sec. 323 amended and restated 18 U.S.C. 2339A, relating to providing material support to terrorists.

¹⁰ 22 U.S.C. 2377 note.

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section: * * *¹¹

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section: * * *¹²

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section: * * *¹³

SEC. 328. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended— * * *¹⁴

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

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

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

¹¹Sec. 325 added a new sec. 620G to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that aid terrorist states. See *Legislation on Foreign Relations Through 2001*, vol. I-A.

¹²Sec. 326 added a new sec. 620H to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that provide military equipment to terrorist states. See *Legislation on Foreign Relations Through 2001*, vol. I-A.

¹³Sec. 327 added a new sec. 1621 to the International Financial Institutions Act (22 U.S.C. 262p-4q), relating to opposition to assistance by international financial institutions to terrorist states. See *Legislation on Foreign Relations Through 2000*, vol. III.

¹⁴See *Legislation on Foreign Relations Through 2001*, vol. I-A.

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

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

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

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

SEC. 329.¹⁵ DEFINITION OF ASSISTANCE.

For purposes of this title—

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

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

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following: * * *¹⁶

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

SUBTITLE A—REMOVAL OF ALIEN TERRORISTS

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title: * * *¹⁷

(b)–(e) * * *

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

¹⁵22 U.S.C. 2349aa–10 note.

¹⁶Sec. 330 added a new sec. 40A to the Arms Export Control Act (22 U.S.C. 2781), relating to transactions with countries not fully cooperating with United States antiterrorism efforts. See *Legislation on Foreign Relations Through 2001*, vol. I–A.

¹⁷Sec. 401(a) added a new title V to the Immigration and Nationality Act, relating to alien terrorist removal procedures. See 8 U.S.C. 1531–1537. Subsec. (b) through (e) made related technical amendments.

SUBTITLE B—EXCLUSION OF MEMBERS AND REPRESENTATIVES OF
TERRORIST ORGANIZATIONS * * *¹⁸

SUBTITLE C—MODIFICATION TO ASYLUM PROCEDURES * * *¹⁹

* * * * *

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL
WEAPONS RESTRICTIONS

SUBTITLE A—NUCLEAR MATERIALS

SEC. 501.²⁰ FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

¹⁸ Subtitle B made several amendments to the Immigration and Nationality Act relating to the exclusion of alien terrorists, denial of visas and other relief. See 8 U.S.C. 1182, 1251, 1253, 1254, 1255, and 1259.

¹⁹ Subtitle C made several amendments to the Immigration and Nationality Act relating to asylum procedures. See 8 U.S.C. 1105a, 1158, and 1225.

²⁰ 18 U.S.C. 831 note.

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear by-product materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from non-weapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—
* * *²¹

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) STUDY.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

²¹ See *Legislation on Foreign Relations Through 2001*, vol. IV.

SUBTITLE B—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 511.²² ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) **FINDINGS.**—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) **CRIMINAL ENFORCEMENT.**—Chapter 10 of title 18, United States Code, is amended— * * *²³

(c) **TERRORISM.**—Section 2332a(a) of title 18, United States Code, is amended * * *

(d) **REGULATORY CONTROL OF BIOLOGICAL AGENTS.**—

(1) **LIST OF BIOLOGICAL AGENTS.**—

(A) **IN GENERAL.**—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) **CRITERIA.**—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) **REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.**—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

²² 42 U.S.C. 262 note.

²³ Subsec. (b) amended 18 U.S.C. 175-178.

- (B) proper laboratory facilities to contain and dispose of such agents;
- (2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;
- (3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and
- (4) appropriate availability of biological agents for research, education, and other legitimate purposes.
- (f) REGULATIONS.—The Secretary shall carry out this section by issuing—
- (1) proposed rules not later than 60 days after the date of enactment of this Act; and
- (2) final rules not later than 120 days after the date of enactment of this Act.
- (g) DEFINITIONS.—For purposes of this section—
- (1) the term “biological agent” has the same meaning as in section 178 of title 18, United States Code; and
- (2) the term “Secretary” means the Secretary of Health and Human Services.

SUBTITLE C—CHEMICAL WEAPONS RESTRICTIONS

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section: * * *²⁴

(b)²⁵ STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

²⁴ Sec. 521(a) added a new sec. 2332c to 18 U.S.C., relating to the use of chemical weapons. See page 887. Subsec. (c) made a clerical amendment to 18 U.S.C.

²⁵ 50 U.S.C. 1522 note.

(2) STUDY OF FACILITY.—

(A) IN GENERAL.—The President shall establish an inter-agency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) * * *

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601.²⁶ FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

²⁶ 18 U.S.C. 841 note. Secs. 602–605 of this title amended 18 U.S.C. to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal, March 1, 1991. See 18 U.S.C. 841, 842, 844, 845. Sec. 606 amended sec. 596(c)(1) of the Tariff Act of 1930; see 19 U.S.C. 1595a(c)(1)).

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) **PURPOSE.**—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

* * * * *

SEC. 607.²⁷ EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

SUBTITLE A—CRIMES AND PENALTIES

* * * * *

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) **OFFENSE.**—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section: * * *²⁸

* * * * *

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) **STUDY.**—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

²⁷ 18 U.S.C. 841 note.

²⁸ Sec. 702(a) added a new sec. 2332b to 18, U.S.C., relating to acts of terrorism transcending national boundaries. See page 884. Subsecs. (b) and (c) made technical amendments.

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) AVAILABILITY.—The Attorney General shall make the report submitted under this subsection available to the public.

* * * * *

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

SUBTITLE A—RESOURCES AND SECURITY

SEC. 801.²⁹ OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

* * * * *

SEC. 807.³⁰ COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the “Secretary”), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the

²⁹ 28 U.S.C. 509 note.

³⁰ 18 U.S.C. 470 note.

Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) **FIRST EVALUATION AUDIT UNDER PLAN.**—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) **SUBSEQUENT EVALUATION AUDITS.**—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) **REPORTS.**—

(1) **IN GENERAL.**—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) **CONTENTS.**—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) **CLASSIFICATION OF INFORMATION.**—

(A) **IN GENERAL.**—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) **CLASSIFIED AND UNCLASSIFIED FORMS.**—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) **SUNSET PROVISION.**—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) **RULE OF CONSTRUCTION.**—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) **FINDINGS.**—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

* * * * *

SUBTITLE B—FUNDING AUTHORIZATIONS FOR LAW ENFORCEMENT

* * * * *

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than

\$10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

- (1) obtaining explosive detection devices and other counterterrorism technology;
- (2) conducting research and development projects on such technology; and
- (3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than \$10,000,000 for fiscal year 1997, to—

- (1) develop technologies that can be used to combat terrorism, including technologies in the areas of—
 - (A) detection of weapons, explosives, chemicals, and persons;
 - (B) tracking;
 - (C) surveillance;
 - (D) vulnerability assessment; and
 - (E) information technologies;
- (2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and
- (3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

* * * * *

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

TITLE IX—MISCELLANEOUS

SEC. 901. EXPANSION OF TERRITORIAL SEA.

(a)³¹ TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code, is amended—

- (1) in subsection (a), by inserting after “title,” the following: “or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district”; and

³¹ 18 U.S.C. 7 note. For Presidential Proclamation 5928, see *Legislation on Foreign Relations Through 2001*, vol. IV.

(2) by adding at the end the following new subsection:

“(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.”.

SEC. 902.³² PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

* * * * *

SEC. 904. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

³²42 U.S.C. 1973gg note.

i. Intelligence Authorization Act for Fiscal Year 1996

**Partial text of Public Law 104-93 [H.R. 1655], 109 Stat. 961, approved
January 6, 1996**

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.— * * *

* * * * *

TITLE III—GENERAL PROVISIONS

* * * * *

SEC. 310. ASSISTANCE TO FOREIGN COUNTRIES.

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

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

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

* * * * *

j. Torture Victim Protection Act of 1991

Public Law 102-256 [H.R. 2092], 106 Stat. 73, approved March 12, 1992

AN ACT To carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Torture Victim Protection Act of 1991”.

SEC. 2.¹ ESTABLISHMENT OF CIVIL ACTION.

(a) **LIABILITY.**—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual’s legal representative, or to any person who may be a claimant in an action for wrongful death.

(b) **EXHAUSTION OF REMEDIES.**—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

(c) **STATUTE OF LIMITATIONS.**—No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.

SEC. 3.¹ DEFINITIONS.

(a) **EXTRAJUDICIAL KILLING.**—For the purposes of this Act, the term “extrajudicial killing” means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

(b) **TORTURE.**—For the purposes of this Act—

(1) the term “torture” means any act, directed against an individual in the offender’s custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has com-

¹ 28 U.S.C. 1350 note.

mitted or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

k. Biological Weapons Anti-Terrorism Act of 1989

Partial text of 18 U.S.C. as added by Public Law 101-298 [S. 993] 104 Stat. 201, approved May 22, 1990; amended by Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; and by Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996

CHAPTER 10—BIOLOGICAL WEAPONS¹

Sec.

175. Prohibitions with respect to biological weapons.

175a. Requests for military assistance to enforce prohibition in certain emergencies.

176. Seizure, forfeiture, and destruction.

177. Injunctions.

178. Definitions.

§ 175. Prohibitions with respect to biological weapons

(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same,² shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) DEFINITION.—For purposes of this section, the term ‘for use as a weapon’ does not include the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for prophylactic, protective, or other peaceful purposes.

¹The Biological Weapons Anti-Terrorism Act of 1989 enacted a new chapter 10 to 18 U.S.C. relating to biological weapons to implement the Biological Weapons Convention. The freestanding sections of the Act provided as follows:

“AN ACT To implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

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

“SECTION 1. [18 U.S.C. 175 note] SHORT TITLE.

“This Act may be cited as the ‘Biological Weapons Anti-Terrorism Act of 1989’.

“SEC. 2. [18 U.S.C. 175 note] PURPOSE AND INTENT.

“(a) PURPOSE.—The purpose of this Act is to—

“(1) implement the Biological Weapons Convention, an international agreement unani-
mously ratified by the United States Senate in 1974 and signed by more than 100 other
nations, including the Soviet Union; and

“(2) protect the United States against the threat of biological terrorism.

“(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific
research or development.”.

²Sec. 511(b)(1) of Public Law 104-132 (110 Stat. 1284) inserted “or attempts, threatens, or
conspires to do the same,” after “to do so.”.

§ 175a.³ Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.”.

§ 176. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) exists by reason of conduct prohibited under section 175 of this title; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government⁴ shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

§ 177. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 175 of this title;

(2) the preparation, solicitation, attempt, threat,⁵ or conspiracy to engage in conduct prohibited under section 175 of this title; or

³Sec. 1416(c)(1)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2723) enacted a new sec. 175a.

⁴Sec. 330010(16) of Public Law 103-322 (108 Stat. 2144) amended 18 U.S.C. 176 by striking out “the government” and inserting in lieu thereof “the Government”.

⁵Sec. 511(b)(2) of 104-132 (110 Stat. 1284) inserted “threat,” after “attempt.”

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

§ 178. Definitions

As used in this chapter—

(1) the term “biological agent” means any micro-organism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product,⁶ capable of causing—

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

(2) the term “toxin” means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule,⁷ whatever its origin or method of production, including—⁸

(A) any poisonous substance or biological product that may be engineered as a result of biotechnology⁹ produced by a living organism; or

(B) any poisonous isomer or biological product,¹⁰ homolog, or derivative of such a substance;

(3) the term ‘delivery system’ means—

(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B) any vector;¹¹

⁶Sec. 511(b)(3)(A) of Public Law 104–132 (110 Stat. 1284) struck out “or infectious substance” and inserted in lieu thereof “infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product”.

⁷Sec. 511(b)(3)(B)(i) of Public Law 104–132 (110 Stat. 1284) inserted “the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule” after “means”.

⁸Sec. 511(b)(3)(B)(ii) of Public Law 104–132 (110 Stat. 1284) struck out “production—” and inserted “production, including—”.

⁹Sec. 511(b)(3)(B)(iii) of Public Law 104–132 (110 Stat. 1284) inserted “or biological product that may be engineered as a result of biotechnology” after “substance”.

¹⁰Sec. 511(b)(3)(B)(iv) of Public Law 104–132 (110 Stat. 1284) inserted “or biological product” after “isomer”.

¹¹Sec. 721(h) of Public Law 104–132 (110 Stat. 1299) struck out “and” at the end of subpara. (B); replaced the period at the end of para. (4) with “; and”; and added a new para. (5).

(4) the term “vector” means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,¹² capable of carrying a biological agent or toxin to a host; and¹¹

(5)¹¹ the term “national of the United States” has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

* * * * *

¹²Sec. 511(b)(3)(C) of Public Law 104–132 (110 Stat. 1284) inserted “or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,” after “organism”.

I. Anti-Terrorism and Arms Export Amendments Act of 1989

Public Law 101-222 [H.R. 91], 103 Stat. 1892, approved December 12, 1989

AN ACT To prohibit exports of military equipment to countries supporting international terrorism, and for other purposes.

NOTE.—The Anti-Terrorism and Arms Export Amendments Act of 1989 consists of amendments to the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act, and the Revised Statutes of the United States (22 U.S.C. 1732), except for sec. 10 which provides as follows.

SEC. 10.¹ SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

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

¹22 U.S.C. 2371 note.

m. Anti-Terrorism Act of 1987

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1406, approved December 22, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

* * * * *

TITLE X—ANTI-TERRORISM ACT OF 1987

SEC. 1001. SHORT TITLE.

This title may be cited as the “Anti-Terrorism Act of 1987”.

SEC. 1002.¹ FINDINGS; DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the “PLO”) was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO’s Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that “armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase”;

(6) the PLO rededicated itself to the “continuing struggle in all its armed forms” at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that “various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror”.

(b) DETERMINATIONS.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

¹ 22 U.S.C. 5201.

SEC. 1003.^{2,3} PROHIBITIONS REGARDING THE PLO.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

SEC. 1004.⁴ ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

(b) RELIEF.—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

² 22 U.S.C. 5202.

¹⁶⁵ Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103-125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94-13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94-30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95-12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95-31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95-36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95-50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96-5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96-8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96-20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96-32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96-41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97-17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900); see secs. 538(d), 551, 554, and 562. See also sec. 574 of that Act, which prohibits assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100-204) through June 4, 1998 (Presidential Determination No. 98-8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98-29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98-5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99-25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00-2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000-19; April 21, 2000; 65 F.R. 24852); and through October 17, 2001 (Presidential Determination No. 01-13; April 17, 2001; 66 F.R. 20585).

⁴ 22 U.S.C. 5203.

SEC. 1005. EFFECTIVE DATE.

(a) **EFFECTIVE DATE.**—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) **TERMINATION.**—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

* * * * *

**n. Achille Lauro Hijackers and Other Terrorists: Demand
for Apprehension, Prosecution, and Punishment**

**Partial text of Public Law 99-177 [Balanced Budget and Emergency Deficit
Control Act of 1985, H.J. Res. 372], 99 Stat. 1037, approved December 12,
1985**

* * * * *

SEC. 3. ACHILLE LAURO HIJACKING.

(a) The Senate finds that—

(1) the four men identified as the hijackers of the Achille Lauro were responsible for brutally murdering an innocent American citizen, Leon Klinghoffer, and for terrorizing hundreds of innocent crew members and passengers for two days;

(2) the United States urges all countries to aid in the swift apprehension, prosecution, and punishment of the terrorists; and

(3) the United States should not tolerate any country providing safe harbor or safe passage to the terrorists.

(b) It is the sense of the Senate that—

(1) the United States demands that no country provide safe harbor or safe passage to these terrorists;

(2) the United States expects full cooperation of all countries in the apprehension, prosecution, and punishment of these terrorists;

(3) the United States cannot condone the release of terrorists or the making of concessions to terrorists; and

(4) the United States identify those individuals responsible for the seizure of the Achille Lauro and the cold-blooded murder of Leon Klinghoffer, as well as those countries and groups that aid and abet such terrorist activities, and take the strongest measures to ensure that those responsible for this brutal act against an American citizen are brought to justice.

* * * * *

o. 1984 Act to Combat International Terrorism

Public Law 98-533 [H.R. 6311], 98 Stat. 2706, approved October 19, 1984; as amended by Public Law 99-646 [Criminal Law and Procedure Technical Amendments Act of 1986, S. 1236], 100 Stat. 3592, approved November 10, 1966; Public Law 100-690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101-647 [Crime Control Act of 1990; S. 3266], 104 Stat. 4789, approved November 29, 1990; Public Law 103-322 [Violent Crime Control and Law Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 103-359 [Intelligence Authorization Act for Fiscal Year 1995; H.R. 4299], 108 Stat. 3423, approved October 14, 1994; Public Law 104-294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996

AN ACT To combat international terrorism.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “1984 Act to Combat International Terrorism”.

TITLE I—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM AUTHORITY OF THE ATTORNEY GENERAL

SEC. 101. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

“CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS

“Sec.

“3071. Information for which rewards authorized.

“3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness.

“3073. Protection of identity.

“3074. Exception of governmental officials.

“3075. Authorization for appropriations.

“3076. Eligibility for witness security program.

“3077. Definitions.

“§ 3071. Information for which rewards authorized

“(a)¹ With respect to acts of terrorism primarily within the territorial jurisdiction of the United States, the Attorney General may reward any individual who furnishes information—

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

¹ Sec. 803(a)(1) of Public Law 103-359 (108 Stat. 3438) inserted subsec. designation (a).

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

“(3) leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

“(b)² With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individual who furnished information—

“(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

“(2) leading to arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

“(3) leading to the prevention or frustration of an act of espionage against the United States.

“§ 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness

“The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid. A reward under this section may be in an amount not to exceed \$500,000. A reward of \$100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.

“§ 3073. Protection of identity

“Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient’s immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

“§ 3074. Exception of governmental officials

“No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

“§ 3075. Authorization for appropriations

“There are authorized to be appropriated, without fiscal year limitation, \$5,000,000 for the purpose of this chapter.

“§ 3076. Eligibility for witness security program

“Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the At-

²Sec. 803(a)(2) of Public Law 103-359 (108 Stat. 3438) added subsec. (b).

torney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under chapter 224 of this title.³

“§ 3077. Definitions

“As used in this chapter, the term—

“(1) ‘act of terrorism’ means an activity that—

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

“(B) appears to be intended—

“(i) to intimidate or coerce a civilian population;

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

“(iii) to affect the conduct of a government by assassination or kidnapping;⁴

“(2) ‘United States person’ means—

“(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

“(C) any person within the United States;

“(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

“(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

“(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation;⁴

“(3) ‘United States property’ means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States;⁴

³Sec. 46 of Public Law 99-646 (100 Stat. 3601) struck out “title V of the Organized Crime Control Act of 1970” at this point and inserted in lieu thereof “chapter 224 of this title”.

⁴Sec. 3572 of Public Law 101-647 (104 Stat. 4929) struck out a period at the end each of paras.(1), (2), (3), and (5), inserted in lieu thereof a semicolon; and struck out a period at the end of (6) and inserted in lieu thereof “; and”.

Sec. 330021(1) of Public Law 103-322 (108 Stat. 2150) corrected the spelling of “kidnapping”.

“(4)⁵ ‘United States’,⁶ when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

“(5) ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;⁴

“(6) ‘government entity’ includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country;⁷

“(7) ‘Attorney General’ means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General’s responsibilities under this chapter; and⁷

“(8)⁷ ‘act of espionage’ means an activity that is a violation of—

“(A) section 793, 794, or 798 of this title;⁸ or

“(B) section 4 of the Subversive Activities Control Act of 1950.”.

(b) The chapter analysis of part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

“204. Rewards for information concerning terrorists acts and espionage⁹ 3071”.

AUTHORITY OF THE SECRETARY OF STATE

SEC. 102.¹⁰ * * *

TITLE II—INTERNATIONAL COOPERATION

INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

SEC. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism, which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

⁵Sec. 7051 of Public Law 100-690 (102 Stat. 4401) restated sec. 3077(4). This text was formerly designated as “(A)”. Para. (B) was struck out; it read as follows:

“(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)”.

⁶Sec. 3572 of Public Law 101-647 (104 Stat. 4929) reversed the comma and quotation mark.

⁷Sec. 803(b) of Public Law 103-359 (108 Stat. 3429) struck out “and” at the end of para. (6); replaced the period at the end of para. (7) with “; and”; and added a new para. (8).

⁸Sec. 605(g) of Public Law 104-294 (110 Stat. 3510) struck out “title 18, United States Code” and inserted in lieu thereof “this title”.

⁹Sec. 803(c) of Public Law 103-359 (108 Stat. 3429) added reference to espionage.

¹⁰Sec. 102 amended the State Department Basic Authorities Act of 1956 by adding a new sec. 36.

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

This working group should have subgroups or appropriate matters, including law enforcement and crisis management.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

SEC. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹¹ of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

SEC. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

(1)¹² \$350,963,000 for the Department of State for “Administration of Foreign Affairs”, and

(2) \$5,315,000 for the United States Information Agency, which amounts shall be for security enhancement at United States missions abroad.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹¹ of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

STATE DEPARTMENT BASIC AUTHORITIES

SEC. 303.¹³ * * *

DANGER PAY

SEC. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense

¹¹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹²Sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98-473; 98 Stat. 1973) provided \$110,200,000 to increase security at U.S. missions overseas.

¹³Sec. 303 amended sec. 2 of the State Department Basic Authorities Act of 1956.

of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

p. Hostage Relief Act of 1980¹

Public Law 96-449 [H.R. 7085], 94 Stat. 1967, approved October 14, 1980

AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hostage Relief Act of 1980".

TITLE I—SPECIAL PERSONNEL BENEFITS

DEFINITIONS

SEC. 101. For purposes of this title—

(1) The term "American hostage" means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State), is placed in a captive status during the hostage period.

(2) The term "hostage period" means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term "family member", when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage's family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

¹ 5 U.S.C. 5561 note. See also sec. 599C of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2064), as amended by sec. 302 of Public Law 102-138 (105 Stat. 707), and further amended by sec. 5 of Public Law 102-499 (106 Stat. 3266), relating to benefits for U.S. hostages in Iraq and Kuwait and U.S. hostages captured in Lebanon.

- (B) which is identified by the Secretary of State in the Federal Register.
- (5) The term “missing status”—
- (A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;
- (B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and
- (C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.
- (6) The terms “pay and allowances”, “employee”, and “agency” have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms “civil service”, “uniformed services”, and “armed forces” have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

SEC. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

SEC. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

- (1) is incident to that individual being an American hostage; and
- (2) is not covered by insurance.

EDUCATION AND TRAINING

SEC. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the nineteenth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostages' captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE
SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

APPLICABILITY TO COLOMBIAN HOSTAGE

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

COMPENSATION EXCLUDED FROM GROSS INCOME

SEC. 201. For purposes of the Internal Revenue Code of 1986,² the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

- (1) in captive status, or
- (2) hospitalized as a result of such individual's captive status.

INCOME TAXES OF HOSTAGE WHERE DEATH RESULTS FROM CAPTIVE STATUS

SEC. 202. (a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1986² shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

(A) shall not be assessed,

(B) if assessed, the assessment shall be abated, and

(C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

SPOUSE MAY FILE JOINT RETURN

SEC. 203. (a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1986² for any taxable year—

(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

(2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall

²Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF
CAPTIVE STATUS

SEC. 204. (a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986² was performed within the time prescribed therefor, and

(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1986² shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

DEFINITIONS AND SPECIAL RULES

SEC. 205. (a) AMERICAN HOSTAGE.—For purposes of this title, the term “American hostage” means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or

(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term “hostage period” means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term “captive status” means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term “missing status”—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term “employee” has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) IN GENERAL.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-YEAR LIMIT.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual’s captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) CIVIL SERVICE; UNIFORMED SERVICES.—For purposes of this section, the terms “civil service” and “uniformed services” have the meanings given to such terms by section 2101 of title 5, United States Code.

(f) APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting “earned income (as defined in section 911(b) of the Internal Revenue Code of 1986)² attributable to” for “compensation from the United States received for”, and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in cap-

tive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this title, the term “compensation” shall not include any amount received as an annuity or as retirement pay.

(2) WAGE WITHHOLDING.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1986.²

STUDY OF TAX TREATMENT OF HOSTAGES

SEC. 206. (a) STUDY.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

q. Hostage Relief Act of 1980—Delegation of Authority

Executive Order 12268, January 15, 1981, 46 F.R. 4671, 5 U.S.C. 5561 note

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96-449, 94 Stat. 1967, 5 U.S.C. 5561 note) and Section 301 of Title 3 of the United States Code, and in order to provide for the implementation of that Act, it is hereby ordered as follows:

1-101. The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage Relief Act of 1980 (5 U.S.C. 5561 note) are delegated to the Secretary of State.

1-102. The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act.

r. Interagency Security Committee

Executive Order 12977, October 19, 1995, 60 F.R. 54411, 40 U.S.C. 486 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the quality and effectiveness of security in and protection of buildings and facilities in the United States occupied by Federal employees for nonmilitary activities ("Federal facilities"), and to provide a permanent body to address continuing government-wide security for Federal facilities, it is hereby ordered as follows:

Section 1. *Establishment.* There is hereby established within the executive branch the Interagency Security Committee ("Committee"). The Committee shall consist of: (a) the Administrator of General Services ("Administrator");

(b) representatives from the following agencies, appointed by the agency heads:

- (1) Department of State;
- (2) Department of the Treasury;
- (3) Department of Defense;
- (4) Department of Justice;
- (5) Department of the Interior;
- (6) Department of Agriculture;
- (7) Department of Commerce;
- (8) Department of Labor;
- (9) Department of Health and Human Services;
- (10) Department of Housing and Urban Development;
- (11) Department of Transportation;
- (12) Department of Energy;
- (13) Department of Education;
- (14) Department of Veterans Affairs;
- (15) Environmental Protection Agency;
- (16) Central Intelligence Agency; and
- (17) Office of Management and Budget;

(c) the following individuals or their designees;

- (1) the Director, United States Marshals Service;
- (2) the Assistant Commissioner of the Federal Protective Service of the Public Buildings Service, General Services Administration ("Assistant Commissioner");
- (3) the Assistant to the President for National Security Affairs; and
- (4) the Director, Security Policy board; and

(d) such other Federal employees as the President may appoint.

Sec. 2. *Chair.* The Committee shall be chaired by the Administrator, or the designee of the Administrator.

Sec. 3. *Working Groups.* The Committee is authorized to establish interagency working groups to perform such tasks as may be directed by the Committee.

Sec. 4. Consultation. The Committee may consult with other parties, including the Administrative Office of the United States Courts, to perform its responsibilities under this order, and, at the discretion of the Committee, such other parties may participate in the working groups.

Sec. 5. Duties and Responsibilities. (a) The Committee shall: (1) establish policies for security in and protection of Federal facilities;

(2) develop and evaluate security standards for Federal facilities, develop a strategy for ensuring compliance with such standards, and oversee the implementation of appropriate security measures in Federal facilities; and

(3) take such actions as may be necessary to enhance the quality and effectiveness of security and protection of Federal facilities, including but not limited to:

(A) encouraging agencies with security responsibilities to share security-related intelligence in a timely and cooperative manner;

(B) assessing technology and information systems as a means of providing cost-effective improvements to security in Federal facilities;

(C) developing long-term construction standards for those locations with threat levels or missions that require blast resistant structures or other specialized security requirements;

(D) evaluating standards for the location of, and special security related to, day care centers in Federal facilities; and

(E) assisting the Administrator in developing and maintaining a centralized security data base of all Federal facilities.

Sec. 6. Agency Support and Cooperation. (a) *Administrative Support.* To the extent permitted by law and subject to the availability of appropriations, the Administrator, acting by and through the Assistant Commissioner, shall provide the Committee such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions under this order.

(b) *Cooperation.* Each executive agency and department shall cooperate and comply with the policies and recommendations of the Committee issued pursuant to this order, except where the Director of Central Intelligence determines that compliance would jeopardize intelligence sources and methods. To the extent permitted by law and subject to the availability of appropriations, executive agencies and departments shall provide such support as may be necessary to enable the Committee to perform its duties and responsibilities under this order.

(c) *Compliance.* The Administrator, acting by and through the Assistant Commissioner, shall be responsible for monitoring Federal agency compliance with the policies and recommendations of the Committee.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the Federal Government, and is not intended, and should not be construed, to create any right or benefit,

substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

4. Passport Laws and Regulations

a. Protection of Citizens Abroad ¹

Act of July 27, 1868 [Revised Statutes, Sec. 2001], 15 Stat. 224; 22 U.S.C. 1732; as amended by Public Law 101-222 [Anti-Terrorism and Arms Export Amendments Act of 1989, H.R. 91], 103 Stat. 1900, approved December 12, 1989

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war and not otherwise prohibited by law,² as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

¹Sec. 611 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 989), concerned equitable treatment of U.S. citizens living abroad.

²Sec. 9 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1900) added “and not otherwise prohibited by law” at this point.

b. Passport Authority

(1) Secretary of State's Passport Authority¹

Partial text of Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 211a; amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 971, approved October 7, 1978; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States, and by such other employees of the Department of State who are citizens of the United States² as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless author-

¹Sec. 125 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 971), concerned diplomatic and official passports.

From 1987 through 1997, the Secretary of State restricted the use of U.S. passports for most travel to, in, or through Lebanon. This restriction was initiated on January 26, 1987, and extended in: Public Notice 1574 of February 10, 1992 (57 F.R. 5925); Public Notice 1767 of February 17, 1993 (58 F.R. 11286); Public Notice 1957 of February 24, 1994 (59 F.R. 10195); Public Notice 2065 of August 31, 1994 (59 F.R. 45056); Public Notice 2174 of March 3, 1995 (60 F.R. 12004); Public Notice 2249 of August 22, 1995 (60 F.R. 45206); Public Notice 2350 of February 27, 1996 (61 F.R. 8096); Public Notice 2429 of August 22, 1996 (61 F.R. 43395); and Public Notice 2506 of January 15, 1997 (62 F.R. 4371).

In Department of State Public Notice 3488 of November 22, 2000 (65 F.R. 75761), the Secretary of State extended the passport restriction for travel to, in, or through Libya, originally restricted on December 11, 1981, by Executive Order 11295 (31 F.R. 10603). Previous extensions have been issued by Public Notice 834 of November 29, 1982 (47 F.R. 54888); Public Notice 889 of December 2, 1983 (48 F.R. 55529); Public Notice 923 of November 29, 1984 (49 F.R. 47585); Public Notice 951 of November 25, 1985 (50 F.R. 49809); Public Notice 987 of December 9, 1986 (51 F.R. 44855); Public Notice 1041 of December 10, 1987 (52 F.R. 46876); Public Notice 1087 of December 8, 1988 (53 F.R. 49633); Public Notice 1143 of December 2, 1989 (54 F.R. 50568); Public Notice 1297 of November 23, 1990 (55 F.R. 49746); Public Notice 1526 of November 15, 1991 (56 F.R. 59316); Public Notice 1728 of November 12, 1992 (57 F.R. 55291); Public Notice 1903 of November 11, 1993 (58 F.R. 61137); Public Notice 2117 of November 14, 1994 (59 F.R. 59815); Public Notice 2293 of November 13, 1995 (60 F.R. 58129); Public Notice 2462 of October 28, 1996 (61 F.R. 56993); Public Notice 2924 of November 9, 1998 (63 F.R. 64139); and Public Notice 3164 of November 24, 1999 (64 F.R. 67600).

In Department of State Public Notice 3600 of February 28, 2001 (66 F.R. 14241), the Secretary of State extended the passport restriction for travel to, in, or through Iraq, originally restricted on February 1, 1991 in Public Notice 1341 (56 F.R. 5242). Extensions were issued in Public Notice 1577 of February 18, 1992 (57 F.R. 6762); Public Notice 1770 of February 23, 1993 (58 F.R. 11883); Public Notice 1960 of February 26, 1994 (59 F.R. 10451); Public Notice 2178 of March 3, 1995 (60 F.R. 13002); Public Notice 2357 of March 8, 1996 (61 F.R. 10839); Public Notice 2523 of March 17, 1997 (62 F.R. 13246); Public Notice 2770 of March 16, 1998 (63 F.R. 13715); Public Notice 3004 of March 18, 1999 (64 F.R. 14301); and Public Notice 3239 of February 24, 2000 (65 F.R. 12611).

²Sec. 127(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 394), struck out "by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge," and inserted in lieu thereof "by diplomatic and consular officers of the United States, and by other employees of the Department of State who are citizens of the United States."

Sec. 1(b) of Public Law 103-415 (108 Stat. 4299) further amended this sentence, by striking out "other employees" and inserting in lieu thereof "such other employees", and by deleting the comma after "United States".

ized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.³

³This sentence was added by sec. 124 of Public Law 95-426 (92 Stat. 971). Sec. 124 also stated that the purpose of this amendment was to achieve greater U.S. compliance with the 1975 Helsinki Agreement as well as to encourage other nations to more fully comply.

(2) Passports—Delegation of Authority

Partial Text of Executive Order 11295;¹ August 5, 1966; 31 F.R. 10603; 22 U.S.C. 211a note

Section 1. Delegation of authority. The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first section of the Act of July 3, 1926 (22 U.S.C. 211a), to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

Sec. 2. Superseded orders. Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled “Rules Governing the Granting and Issuing of Passports in the United States.”

(2) Executive Order No. 8820 of July 11, 1941, entitled “Amending the Foreign Service Regulations of the United States.”

Sec. 3. Saving provisions. All rules and regulations contained in the Executive order provisions revoked by Section 2 of this order, and all rules and regulations issued under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance

¹From 1987 through 1997, the Secretary of State restricted the use of U.S. passports for most travel to, in, or through Lebanon. This restriction was initiated on January 26, 1987, and extended in: Public Notice 1574 of February 10, 1992 (57 F.R. 5925); Public Notice 1767 of February 17, 1993 (58 F.R. 11286); Public Notice 1957 of February 24, 1994 (59 F.R. 10195); Public Notice 2065 of August 31, 1994 (59 F.R. 45056); Public Notice 2174 of March 3, 1995 (60 F.R. 12004); Public Notice 2249 of August 22, 1995 (60 F.R. 45206); Public Notice 2350 of February 27, 1996 (61 F.R. 8096); Public Notice 2429 of August 22, 1996 (61 F.R. 43395); and Public Notice 2506 of January 15, 1997 (62 F.R. 4371).

In Department of State Public Notice 3488 of November 22, 2000 (65 F.R. 75761), the Secretary of State extended the passport restriction for travel to, in, or through Libya, originally restricted on December 11, 1981, by Executive Order 11295 (31 F.R. 10603). Previous extensions have been issued by Public Notice 834 of November 29, 1982 (47 F.R. 54888); Public Notice 889 of December 2, 1983 (48 F.R. 55529); Public Notice 923 of November 29, 1984 (49 F.R. 47585); Public Notice 951 of November 25, 1985 (50 F.R. 49809); Public Notice 987 of December 9, 1986 (51 F.R. 44855); Public Notice 1041 of December 10, 1987 (52 F.R. 46876); Public Notice 1087 of December 8, 1988 (53 F.R. 49633); Public Notice 1143 of December 2, 1989 (54 F.R. 50568); Public Notice 1297 of November 23, 1990 (55 F.R. 49746); Public Notice 1526 of November 15, 1991 (56 F.R. 59316); Public Notice 1728 of November 12, 1992 (57 F.R. 55291); Public Notice 1903 of November 11, 1993 (58 F.R. 61137); Public Notice 2117 of November 14, 1994 (59 F.R. 59815); Public Notice 2293 of November 13, 1995 (60 F.R. 58129); Public Notice 2462 of October 28, 1996 (61 F.R. 56993); Public Notice 2924 of November 9, 1998 (63 F.R. 64139); and Public Notice 3164 of November 24, 1999 (64 F.R. 67600).

In Department of State Public Notice 3600 of February 28, 2001 (66 F.R. 14241), the Secretary of State extended the passport restriction for travel to, in, or through Iraq, originally restricted on February 1, 1991 in Public Notice 1341 (56 F.R. 5242). Extensions were issued in Public Notice 1577 of February 18, 1992 (57 F.R. 6762); Public Notice 1770 of February 23, 1993 (58 F.R. 11883); Public Notice 1960 of February 26, 1994 (59 F.R. 10451); Public Notice 2178 of March 3, 1995 (60 F.R. 13002); Public Notice 2357 of March 8, 1996 (61 F.R. 10839); Public Notice 2523 of March 17, 1997 (62 F.R. 13246); Public Notice 2770 of March 16, 1998 (63 F.R. 13715); Public Notice 3004 of March 18, 1999 (64 F.R. 14301); and Public Notice 3239 of February 24, 2000 (65 F.R. 12611).

of the authority conferred by this order, unless sooner terminated by operation of law.

(3) Nationality and Passport Regulations

Regulations of the Secretary of State, Department Regulation 108.541, 22 CFR 50 through 53, October 20, 1966, 31 F.R. 13537, as amended

PART 50—NATIONALITY PROCEDURES

AUTHORITY: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

§ 50.1 Definitions.

The following definitions shall be applicable to this part:

(a) “United States” means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) “Department” means the Department of State of the United States of America.

(c) “Secretary” means the Secretary of State.

(d) “National” means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) “Passport” means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) “Passport Agent” means a person designated by the Department to accept passport applications.

(g) *Designated nationality examiner* means a United States citizen employee of the Department of State assigned or employed abroad (permanently or temporarily) and designated by the Deputy Assistant Secretary of State for Overseas Citizen Services, to grant, issue and verify U.S. passports. A designated nationality examiner may adjudicate claims of acquisition and loss of United States nationality and citizenship as required for the purposes of providing passport and related services. The authority of designated nationality examiners shall include the authority to examine, adjudicate, approve and deny passport applications and applications for related services. The authority of designated nationality examiners shall expire upon termination of the employee’s assignment for such duty and may also be terminated at any time by the Deputy Assistant Secretary for Overseas Citizen services.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966; 61 F.R. 43311, Aug. 22, 1996]

Subpart A—Procedures for Determination of United States Nationality of a Person Abroad**§ 50.2 Determination of U.S. nationality of persons abroad.**

The Department shall determine claims to United States nationality when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America. Such determination of nationality may be made abroad by a consular officer or a designated nationality examiner. A designated nationality examiner may accept and approve/disapprove applications for registration and accept and approve/disapprove applications for passports and issue passports. Under the supervision of a consular officer, designated nationality examiners shall accept, adjudicate, disapprove and provisionally approve applications for the Consular Report of Birth Abroad. A Consular Report of Birth Abroad may only be issued by a consular officer, who will review a designated nationality examiner's provisional approval of an application for such report and issue the report if satisfied that the claim to nationality has been established.

[Amended at 61 F.R. 43311, Aug. 22, 1996]

§ 50.3 Application for registration.

(a) A person abroad who claims U.S. nationality, or a representative on his behalf, may apply at a consular post for registration to establish his claim to U.S. nationality or to make his residence in the particular consular area a matter of record.

(b) The applicant shall execute the registration form prescribed by the Department and shall submit the supporting evidence required by subpart C of part 51 of this chapter. A diplomatic or consular officer or a designated nationality examiner shall determine the period of time for which the registration will be valid.

[Amended at 61 F.R. 43312, Aug. 22, 1996]

§ 50.4 Application for passport.

A claim to U.S. nationality in connection with an application for passport shall be determined by posts abroad in accordance with the regulations contained in Part 51 of this chapter.

§ 50.5 Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

Upon application by the parent(s) or the child's legal guardian, a consular officer or designated nationality examiner may accept and adjudicate the application for a Consular Report of Birth Abroad of a Citizen of the United States of America for a child born in their consular district. In specific instances, the Department may authorize consular officers and other designated employees to adjudicate the application for a Consular Report of Birth Abroad of a child born outside his/her consular district. Under the supervision of a consular officer, designated nationality examiners shall accept, adjudicate, disapprove and provisionally approve applications for the Consular Report of Birth Abroad. The applicant shall be required to submit proof of the child's birth, identity and citizenship

meeting the evidence requirements of subpart C of part 51 of this subchapter and shall include:

(a) *Proof of child's birth.* Proof of child's birth usually consists of, but is not limited to, an authentic copy of the record of the birth filed with local authorities, a baptismal certificate, a military hospital certificate of birth, or an affidavit of the doctor or the person attending the birth. If no proof of birth is available, the person seeking to register the birth shall submit his affidavit explaining why such proof is not available and setting forth the facts relating to the birth.

(b) *Proof of child's citizenship.* Evidence of parent's citizenship and, if pertinent, evidence of parent's physical presence in the United States as required for transmittal of claim of citizenship by the Immigration and Nationality Act of 1952 shall be submitted.

[Amended at 61 F.R. 43312, Aug. 22, 1996]

§ 50.6 Registration at the Department of birth abroad.

In the time of war or national emergency, passport agents may be designated to complete consular reports of birth for children born at military facilities which are not under the jurisdiction of a consular office. An officer of the Armed Forces having authority to administer oaths may take applications for registration under this section.

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

(a) Upon application and the submission of satisfactory proof of birth, identity and nationality, and at the time of the reporting of the birth, the consular officer may issue to the parent or legal guardian, when approved and upon payment of a prescribed fee, a Consular Report of Birth Abroad of a Citizen of the United States of America.

(b) Amended and replacement Consular Reports of Birth Abroad of a Citizen of the United States of America may be issued by the Department of State's Passport Office upon written request and payment of the required fee.

(c) When it reports a birth under § 50.6, the Department shall furnish the Consular Report of Birth Abroad of a Citizen of the United States of America to the parent or legal guardian upon application and payment of required fees.

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was crafted through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

[Amended and restated at 61 F.R. 43312, Aug. 22, 1996; subsec. (d) added at 64 F.R. 19714, Apr. 22, 1999]

§ 50.8 Certification of Report of Birth Abroad of a United States Citizen.

At any time subsequent to the issuance of a Consular Report of Birth Abroad of a Citizen of the United States of America, when requested and upon payment of the required fee, the Department of State's Passport Office may issue to the citizen, the citizen's parent or legal guardian a certificate entitled "Certification of Report of Birth Abroad of a United States Citizen."

[Amended at 61 F.R. 43312, Aug. 22, 1996]

§ 50.9 Card of identity.

When authorized by the Department, consular offices or designated nationality examiners may issue a card of identity for travel to the United States to nationals of the United States being deported from a foreign country, to nationals/citizens of the United States involved in a common disaster abroad, or to a returning national of the United States to whom passport services have been denied or withdrawn under the provisions of this part or parts 51 or 53 of this subchapter.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended by Dept. Reg. 108.665, 37 F.R. 11459, June 8, 1972; 61 F.R. 43312, Aug. 22, 1996]

§ 50.10 Certificate of nationality.

(a) Any person who acquired the nationality of the United States at birth and who is involved in any judicial or administrative proceedings in a foreign state and needs to establish his U.S. nationality may apply for a certificate of nationality in the form prescribed by the Department.

(b) An applicant for a certificate of nationality must submit evidence of his nationality and documentary evidence establishing that he is involved in judicial or administrative proceedings in which proof of his U.S. nationality is required.

§ 50.11 Certificate of identity for travel to the United States to apply for admission.

(a) A person applying abroad for a certificate of identity under section 360(b) of the Immigration and Nationality Act shall complete the application form prescribed by the Department and submit evidence to support his claim to U.S. nationality.

(b) When a diplomatic or consular officer denies an application for a certificate of identity under this section, the applicant may submit a written appeal to the Secretary, stating the pertinent facts, the grounds upon which U.S. nationality is claimed and his reasons for considering that the denial was not justified.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966]

Subpart B—Retention and Resumption of Nationality**§ 50.21 Retention of nationality.**

(a) *Section 351(b) of the Immigration and Nationality Act.* (1) A person who desires to claim U.S. nationality under the provisions of section 351(b) of the Immigration and Nationality Act must, within the time period specified in the statute, assert a claim to U.S. nationality and subscribe to an oath of allegiance before a diplomatic or consular officer.

(2) In addition, the person shall submit to the Department a statement reciting the person's identity and acquisition or derivation of U.S. nationality, the facts pertaining to the performance of any act which would otherwise have been expatriative, and the person's desire to retain the person's U.S. nationality.

[Amended at 61 F.R. 29652 and 29653, June 12, 1996]

§ 50.30 Resumption of nationality.

(a) *Section 324(c) of the Immigration and Nationality Act.* (1) A woman formerly a citizen of the United States at birth who wishes to regain her citizenship under section 324(c) of the Immigration and Nationality Act may apply abroad to a diplomatic or consular officer on the form prescribed by the Department to take the oath of allegiance prescribed by section 337 of that Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department for decision, that the applicant is ineligible for resumption of citizenship because of section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(b) *The Act of June 25, 1936.* (1) A woman who has been restored to citizenship by the Act of June 25, 1936, as amended by the Act of July 2, 1940, but who failed to take the oath of allegiance prior to December 24, 1952, as prescribed by the nationality laws, may apply abroad to any diplomatic or consular officer to take the oath of allegiance as prescribed by section 337 of the Immigration and Nationality Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department, that the applicant is ineligible for resumption of citizenship under section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(c) *Certification of repatriation.* Upon request and payment of the prescribed fee, a diplomatic or consular officer or the Department shall issue a certified copy of the application and oath administered to a woman repatriated under this section.

(d) *Section 324(d)(1) of the Immigration and Nationality Act.* (1) A former citizen of the United States who did not retain U.S. citizenship by failure to fulfill residency requirements as set out in Section 201(g) of the 1940 Nationality Act or former 301(b) of the 1952 Immigration and Nationality Act, may regain his/her U.S. citizenship pursuant to Section 324(d) INA, by applying abroad at

a diplomatic or consular post, or in the U.S. at any Immigration and Naturalization Service office in the form and manner prescribed by the Department of State and the Immigration and Naturalization Service (INS).

(2) The application shall submit documentary evidence to establish eligibility to take the oath of allegiance, which includes proof of birth abroad to a U.S. citizen parent between May 24, 1934 and December 24, 1952. If the diplomatic, consular, INS, or passport officer determines that the applicant is ineligible to regain citizenship under section 313 INA, the oath shall not be administered.

[Subsec. (d) added at 61 F.R. 29652, June 12, 1996]

Subpart C—Loss of Nationality

§ 50.40 Certification of loss of U.S. nationality.

(a) *Administrative presumption.* In adjudicating potentially expatriating acts pursuant to INA 349(a), the Department has adopted an administrative presumption regarding certain acts and the intent to commit them. U.S. citizens who naturalize in a foreign country; take a routine oath of allegiance; or accept non-policy level employment with a foreign government need not submit evidence of intent to retain U.S. nationality. In these three classes of cases, intent to retain U.S. citizenship will be presumed. A person who affirmatively asserts to a consular officer, after he or she has committed a potentially expatriating act, that it was his or her intent to relinquish U.S. citizenship will lose his or her U.S. citizenship. In other loss of nationality cases, the consular officer will ascertain whether or not there is evidence of intent to relinquish U.S. nationality.

(b) Whenever a person admits that he or she had the intent to relinquish citizenship by the voluntary and intentional performance of one of the acts specified in Section 349(a) of the Immigration and Nationality Act, and the person consents to the execution of an affidavit to that effect, the diplomatic or consular officer shall attach such affidavit to the certificate of loss of nationality.

(c) Whenever a diplomatic or consular officer has reason to believe that a person, while in a foreign country, has lost his U.S. nationality under any provision of chapter 3 of title III of the Immigration and Nationality Act of 1952, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall prepare a certificate of loss of nationality containing the facts upon which such belief is based and shall forward the certificate to the Department.

(d) If the diplomatic or consular officer determines that any document containing information relevant to the statements in the certificate of loss of nationality should not be attached to the certificate, the person may summarize the pertinent information in the appropriate section of the certificate and send the documents together with the certificate to the Department.

(e) If the certificate of loss of nationality is approved by the Department, a copy shall be forwarded to the Immigration and Naturalization Service, Department of Justice. The diplomatic or consular office in which the certificate was prepared shall then for-

ward a copy of the certificate to the person to whom it relates or his representative.

[Amended at 61 F.R. 29652, June 12, 1996; amended at 63 F.R. 20315, Apr. 24, 1998]

§ 50.50 Renunciation of nationality.

(a) A person desiring to renounce U.S. nationality under section 349(a)(5) of the Immigration and Nationality Act shall appear before a diplomatic or consular officer of the United States in the manner and form prescribed by the Department. The renunciant must include on the form he signs a statement that he absolutely and entirely renounces his U.S. nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

(b) The diplomatic or consular officer shall forward to the Department for approval the oath of renunciation together with a certificate of loss of nationality as provided by section 358 of the Immigration and Nationality Act. If the officer's report is approved by the Department, copies of the certificate shall be forwarded to the Immigration and Naturalization Service, Department of Justice, and to the person to whom it relates or his representative.

[Amended at 61 F.R. 29653, June 12, 1996]

§ 50.51 Notice of right to appeal.

When an approved certificate of loss of nationality or certificate of expatriation is forwarded to the person to whom it relates or his or her representative, such person or representative shall be informed of the right to appeal the Department's determination to the Board of Appellate Review (Part 7 of this Chapter) within one year after approval of the certificate of loss of nationality or the certificate of expatriation.

[Added 44, F.R. 68827, Nov. 30, 1979; redesignated from sec. 50.52 at 61 F.R. 29653, June 12, 1996]

PART 51—PASSPORTS

AUTHORITY: 22 U.S.C. 211a, as amended; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 36 FR 10603; 3 CFR, 1966–1970 Comp., p. 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

§ 51.1 Definitions.

The following definitions shall be applicable to this part:

(a) "United States" means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) "Department" means the Department of State of the United States of America.

(c) "Secretary" means the Secretary of State.

(d) "National" means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) “Passport” means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) “Passport Agent” means a person designated by the Department to accept passport applications.

(g) “Passport Issuing Office” means the Passport Office, a Passport Agency, a Passport Agent of the Department, or a Foreign Service Post authorized to issue passports.

(h) *Designated nationality examiner* means a person designated under § 50.1(g) of this subchapter.

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14522, Nov. 11, 1966; 61 F.R. 43312, Aug. 22, 1996]

Subpart A—General

§ 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

[SD–165, 46 F.R. 2343, Jan. 9, 1981]

§ 51.3 Types of passports.

(a) *Regular passport.* A regular passport is issued to a national of the United States proceeding abroad for personal or business reasons.

(b) *Official passport.* An official passport is issued to an official or employee of the U.S. Government proceeding abroad in the discharge of official duties. Where appropriate, dependents of such persons may be issued official passports.

(c) *Diplomatic passport.* A diplomatic passport is issued to a Foreign Service Officer, a person in the diplomatic service or to a person having diplomatic status either because of the nature of his or her foreign mission or by reason of the office he or she holds. Where appropriate, dependents of such persons may be issued diplomatic passports.

(22 U.S.C 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.4 Validity of passports.

(a) *Signature of bearer.* A passport is valid only when signed by the bearer in the space designated for his signature.

(b) *Period of validity of a regular passport.*

(1) A regular passport issued on or after February 1, 1998, to an applicant 16 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period.

(2) A regular passport issued on or after February 1, 1998 to an applicant under the age of 16 years is valid for 5 years

from date of issue unless limited by the Secretary to a shorter period.

(3) The period of validity of a regular passport issued on or after January 1, 19883, and before February 1, 1998, unless limited by the Secretary of State to a shorter period is: 10 years from date of issue if issued to an applicant age 18 or older; five years from date of issue if issued to an applicant under age 18.

(4) The period of validity of a regular passport issued prior to January 1, 1983, is five years from date of issue.

(c) *Period of validity of an official passport.* An official passport is normally valid for a period of 5 years from the date of issue as long as the bearer maintains the official status for which it is issued. It must be returned to the Department upon the termination of the bearer's official status.

(d) *Period of validity of a diplomatic passport.* A diplomatic passport issued on or after January 1, 1977 is valid for a period of five (5) years or so long as the bearer maintains his/her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Secretary shall determine. Any outstanding diplomatic passport issued before January 1, 1977 will expire effective December 31, 1977.

(e) *Period of a regular passport issued for no fee.* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

(g) *Cancellation of passport endorsed as valid only for travel to Israel.* The validity of any passport which has been issued and endorsed as valid only for travel to Israel is cancelled effective April 25, 1992. Where it is determined that its continued use is warranted, the validity of such passport may be renewed or extended for additional periods of two years upon cancellation of the Israel-only endorsement. In no event may the validity of such passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a 2658); E.O. 11295, 36 F.R. 10603; 3 CFR 1966-70 Comp. p. 507)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.594, 33 F.R. 12042, Aug. 24, 1968; Dept. Reg. 108.734, 42 F.R. 17869, Apr. 4, 1977; Dept. Reg. 108.828, 47 F.R. 56329, Dec. 16, 1982; 57 F.R. 3282, Jan. 29, 1992; 63 F.R. 7285, Feb. 13, 1998]

§ 51.5 [Reserved]**§ 51.6 Mutilation and alteration of passports.**

Any passport which has been materially changed in physical appearance or composition, or which includes unauthorized changes, obliterations, entries or photographs may be invalidated.

§ 51.7 Verification of passports.

When required by the officials of a foreign government, an American Foreign Service office may verify a U.S. passport at the request of the bearer or of the foreign government.

§ 51.8 Cancellation of previously issued passport.

(a) Upon applying for a new passport, an applicant shall submit for cancellation any previous passport still valid or potentially valid.

(b) If an applicant is unable to produce such a passport for cancellation, he or she shall submit a signed statement setting forth the circumstances surrounding the disposition of the passport and if it is claimed to have been lost, the efforts made to recover it. A determination will then be made whether to issue a new passport and whether such passport shall be limited as to place and periods of validity.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.9 Passport property of the U.S. Government.

A passport shall at all times remain the property of the United States and shall be returned to the Government upon demand.

Subpart B—Application**§ 51.21 General.**

An application for a passport or for an amendment of a passport shall be completed upon such forms as may be prescribed by the Department. The passport applicant shall truthfully answer all questions, and shall state each and every material matter of fact, pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application shall be considered a part thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.21 Execution of passport application.

(a) *First-time applicants or persons who have not been issued a passport within the past fifteen years.* A person who has never been issued a passport in his or her own name, or who has not been issued a passport in his or her own name within 15 years of the date of a new application, shall appear in person before a person

authorized by the Secretary to give oaths, verify the application by oath or affirmation before that authorized person, provide two recent photographs, and pay the established fees.

(b) *Persons authorized by the Secretary to give oaths.* The following persons are authorized by the Secretary to give oaths for passport purposes unless withdrawn by the Secretary in an individual case:

- (1) A passport agent;
- (2) A clerk of any Federal court;
- (3) A clerk of any State court of record or a judge or clerk of any probate court;
- (4) A postal employee designated by the postmaster at a post office which has been selected to accept passport applications;
- (5) A U.S. citizen employee of the Department of Defense designated by the Secretary of Defense to accept passport applications at a military installation within the continental United States selected to accept passport applications;
- (6) A diplomatic officer, a consular officer, an overseas nationality examiner, a consular agent or a notarial officer abroad; or
- (7) Any other persons specifically designated by the Secretary.

(c) *Persons in the United States who have previously been issued a full validity passport.* A person in the United States who has been issued a passport in his or her own name may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two signed recent photographs and the established fee to the nearest U.S. passport agency, provided:

- (1) The most recently issued previous passport was issued when the applicant was 16 years of age or older.
- (2) The application is made not more than 15 years following the issue date of the previous passport;¹
- (3) The most recently issued previous passport is submitted with the new application.

(d) *Persons outside of the United States who have previously been issued a full validity passport.* In a foreign country in which a U.S. consular district has been designated by the Secretary to receive such passport applications, a person who has been issued a passport in his or her own name within 8 years of the date of the new application may obtain a new passport by filling out a specially prescribed application and sending it (by mail or as prescribed by the Secretary), together with his or her previous passport, two recent photographs, and the established fee to the consular office in the consular district in which he or she is present, provided:

- (1) The most recently issued passport was issued when the applicant was 16 years of age or older.
- (2) The application is made not more than 15 years following the issue date of the previous passport;¹
- (3) The most recently issued previous passport is submitted with the new application.

¹As published by the Office of the Federal Register, National Archives and Records Administration.

(4) In a Consular district specifically authorized by the Secretary to waive personal appearance of minors in accordance with this subsection, a U.S. consular officer may waive the age requirement established for use of the mail application, where the consular officers determines that:

(i) The minor and, if applicable, the U.S. citizen parent(s) or legal guardian are registered in that consular district;

(ii) The minor is not subject to the provisions of subsection 51.27 (c) or (d);

(iii) The waiver of the age requirement is otherwise in the interest of consular efficiency; and

(iv) The waiver will not otherwise compromise the integrity of the passport application process.

[44 F.R. 19393, Apr. 3, 1979; as amended by SD-165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.804, 46 F.R. 16257, Mar. 12, 1981; 51 F.R. 20475, June 5, 1986; 55 F.R. 21538, May 25, 1990; 57 F.R. 59807, Dec. 16, 1992; 61 F.R. 43312, Aug. 22, 1996; 65 F.R. 39288, June 26, 2000]

§ 51.24 [Reserved]

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence to citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

[SD-165, 46 F.R. 2343, Jan. 9, 1981]

§ 51.24 Change of name.

An applicant whose name has been changed by court order or decree shall submit with his or her application a certified copy of the order or decree. An applicant who has changed his or her name by the adoption of a new name without formal court proceedings shall submit with his or her application evidence that he or she has publicly and exclusively used the adopted name over a long period of time.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.25 Photographs.

(a) *Photographs of bearer.* The applicant shall submit with his or her application duplicate photographs of the size specified in the application. The photographs should be sufficiently recent to be a good likeness of and satisfactorily identify the applicant. The photographs shall be signed in the same manner and form as required in the application.

(b) *Photographs of uniformed personnel.* Only applicants who are in the active service of the Armed Forces and proceeding abroad in

the discharge of their duties may submit photographs in the uniform of the Armed Forces of the United States.

(c) *Unacceptable photographs.* A photograph with a waxed back or other coating which lessens adhesiveness is not acceptable. Newspaper or magazine pictures, snapshots, or full length photographs are not acceptable. Photographs of persons in the uniform of a civilian organization, except religious dress, will not generally be accepted.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.751, 43 F.R. 1791, Jan. 12, 1978; 44 F.R. 19394, Apr. 3, 1979; SD-165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.26 Incompetents.

A parent, a legal guardian, or a person in loco parentis shall execute a passport application on behalf of a person declared incompetent.

§ 51.27 Minors.

(a) *Definitions.* A minor is an unmarried person under the age of 18 years.

(b) *Execution of application for minors.* (1) A minor of age 13 years or above shall execute an application on his or her own behalf unless in the judgment of the person before whom the application is executed it is not desirable for the minor to execute his or her own application. In such case it must be executed by a parent or guardian of the minor, or by a person in loco parentis. A parent, guardian or person in loco parentis shall execute the application for minors under the age of 13 years. The passport issuing office may require a minor under the age of 18 years to obtain and submit the written consent of a parent, a legal guardian or a person in loco parentis.

(2) A parent, a guardian, or person in loco parentis shall execute the application for minors under the age of 13 years. Applications may be executed by either parent, regardless of the parent's citizenship. Permission of or notification to the other parent will not be required unless such permission or notification is required by a court order registered with the Department of State by an objecting parent as provided in paragraph (d)(1) of this section.

(3) The passport issuing office may require a minor under the age of 18 years to obtain and submit the written consent of a parent, a legal guardian or a person in loco parentis to the issuance of the passport.

(c) *Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute.* At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) *Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.*

(1)(i) When there is a dispute concerning the custody of a minor, a passport may be denied if the Department has on file a court

order granted by a court of competent jurisdiction in the United States or abroad which: (A) Grants sole custody to the objecting parent; or (B) Establishes joint legal custody; or (C) Prohibits the child's travel without the permission of both parents or the court; or (D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein. (ii) For passport issuance purposes, a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been register with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appellate court before a passport may be issued.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 61 F.R. 6505, Feb. 21, 1996]

§ 51.28 Identity of applicant.

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport Issuing Office may require such additional evidence of identity as may be deemed necessary.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by SD-165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.30 Persons unacceptable as witnesses.

The passport issuing office will not accept as witness to a passport application a person who has received or expects to receive a fee for his services in connection with executing the application or obtaining the passport.

§ 51.31 Affidavit of identifying witness.

(a) An identifying witness shall execute an affidavit stating: That he or she resides at a specific address; that he or she knows or has reason to believe that the applicant is a citizen of the United States; the basis of his or her knowledge concerning the applicant; and that the information set out in his or her affidavit is true to the best of his or her knowledge and belief.

(b) If the witness has a U.S. passport, he or she shall state the place of issue and, if possible, the number and approximate date of issue.

(c) The identifying witness shall subscribe to his or her statement before the same person who took the passport application.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14522, Nov. 11, 1966; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

[SD–165 46 F.R. 2343, Jan. 9, 1981]

§ 51.33 Release of passport information.

Information in passport files is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with the implementing regulations set forth in Subchapter R, Part 171 or Part 172 of this title.

(22 U.S.C. 2658 and 3926; 5 U.S.C. 552, 552a)

[61 F.R. 29940, June 13, 1996]

Subpart C—Evidence of U.S. Citizenship or Nationality**§ 51.40 Burden of proof.**

The applicant has the burden of proving that he or she and any persons to be included in the passport are nationals of the United States.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.41 Documentary evidence.

Every application shall be accompanied by evidence of the U.S. nationality of the applicant and of any other person to be extended passport services.

§ 51.43 Persons born in the United States applying for a passport for the first time.

(a) *Primary evidence of birth in the United States.* A person born in the United States in a place where official records of birth were kept at the time of his or her birth shall submit with the applica-

tion for a passport a birth certificate under the seal of the official custodian of birth records. To be acceptable, a certificate must show the full name of the applicant place and date of birth, and that the record thereof was recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit primary evidence of birth, he or she shall submit the best obtainable secondary evidence. If a person was born at a place in the United States when birth records were filed, he or she must submit a "no record" certification from the official custodian of such birth records before secondary evidence may be considered. The passport issuing office will consider, as secondary evidence, baptismal certificates, certificates of circumcision, or other documentary evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.685, 38 F.R. 4667, Feb. 20, 1973; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.44 Persons born abroad applying for a passport for the first time.

(a) *Naturalization in on right.* A person naturalized in his or her own right as a U.S. citizen shall submit with his or her application his or her certificate of naturalization.

(b) *Derivative citizenship at birth.* (1) An applicant who claims to have derived citizenship by virtue of his or her birth abroad to a U.S. citizen parent or parents may submit his or her won certificate of citizenship (Section 1993, Revised Statutes, as amended by Act of May 24, 1934; section 201 of the Nationality Act of 1940; section 301 of the Immigration and Nationality Act of 1952).

(2) In lieu of a certificate of citizenship, the applicant may submit evidence of his or her parent(s)' citizenship at the time of his or her birth, and evidence of his or her and his or her parent(s)' residence and physical presence in the United States. The passport issuing office may require the applicant to establish the marriage of his or her parents and/or grandparents and his or her relationship to them.

(c) *Derivative citizenship subsequent to birth.* (1) An applicant who claims U.S. citizenship by virtue of the naturalization of his or her parent or parents subsequent to his or her birth may submit his or her own certificate of citizenship.

(2) In lieu of a certificate of citizenship the applicant may submit the naturalization certificate of the parent or parents through whom he or she claims U.S. citizenship. In this case, he or she must also show that he or she resided in the United States during minority as required by the law under which he or she claims citizenship.

(3) If an applicant claims citizenship through a mother who resumed citizenship or parent who was repatriated, he or she must submit evidence thereof. The applicant must establish also that he or she resided in the United States for the period prescribed by law.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

MARRIED WOMEN

§ 51.45 Marriage to an alien prior to March 2, 1907.

A woman citizen of the United States who married an alien prior to March 2, 1907, did not lose her U.S. citizenship unless she acquired as a result of the marriage the nationality of her husband and thereafter took up a permanent residence abroad prior to September 22, 1922.

§ 51.46 Marriage to an alien prior to March 2, 1907, and September 22, 1922.

(a) A woman citizen of the United States who married an alien between March 2, 1907, and September 22, 1922, lost her U.S. citizenship, except as provided in paragraph (b) of this section. At the termination of the marital relation she could resume her U.S. citizenship, if abroad, by registering as a U.S. citizen within 1 year with a Consul of the United States, or by returning to reside in the United States, or, if resident in the United States, by continuing to reside therein. (Section 3 of the Act of March 2, 1907.)

(b) A woman citizen of the United States who married an alien between April 6, 1917, and July 2, 1921, did not lose her citizenship, if the marriage terminated by death or divorce prior to July 2, 1921, or if her husband became a U.S. citizen prior to that date. She may establish her citizenship by proving her U.S. citizenship prior to marriage and the termination of the marriage or acquisition of U.S. citizenship by her husband prior to July 2, 1921.

§ 51.47 Marriage prior to September 22, 1922, to an alien who acquired U.S. citizenship by naturalization prior to September 22, 1922.

A woman citizen of the United States who lost her citizenship by virtue of her marriage to an alien between March 2, 1907, and September 22, 1922, and who reacquired U.S. citizenship through the naturalization of her husband prior to September 22, 1922, may establish her U.S. citizenship by submitting her husband's certificate of naturalization.

§ 51.48 Marriage between September 22, 1922, and March 3, 1931, to an alien ineligible to citizenship.

A woman citizen of the United States who lost her U.S. citizenship by virtue of her marriage to an alien ineligible to citizenship between September 22, 1922, and March 3, 1931, but who reacquired her citizenship by naturalization in accordance with applicable law shall submit with her application her certificate of naturalization (sec. 3 of the Act of Mar. 3, 1931).

§ 51.49 Marriage on or after September 22, 1922, to an alien eligible to naturalization.

A woman citizen of the United States who on or after September 22, 1922, married an alien eligible for naturalization did not there-

by lose her U.S. citizenship and need only submit evidence of her own citizenship before a passport issuing office.

§ 51.50 Alien born woman—marriage to citizen prior to September 22, 1922.

An alien woman who acquired U.S. citizenship by virtue of her marriage to a citizen of the United States prior to September 22, 1922, shall submit with her application evidence of her husband's citizenship and of the marriage. (Section 1994 of the Revised Statutes.)

CITIZENSHIP BY ACT OF CONGRESS OR TREATY

§ 51.51 Former nationals of Spain or Denmark.

Former nationals of Spain or Denmark who acquired nationality or citizenship of the United States under an act of Congress or treaty by virtue of residence in territory under the sovereignty of the United States shall submit evidence of their former nationality and of their residence in such territory.

§ 51.52 Citizenship by birth in territory under sovereignty of the United States.

A person claiming nationality or citizenship of the United States under an act of Congress or treaty by virtue of his or her birth in territory under the sovereignty of the United States shall submit evidence of his birth in such territory.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.53 Proof of resumption of U.S. citizenship.

An applicant who claims that he or she resumed U.S. citizenship or was repatriated under any of the nationality laws of the United States shall submit with the application a certificate of naturalization, a certificate of repatriation or evidence of the fact that he or she took an oath of allegiance in accordance with the applicable provisions of the law. (Act of June 29, 1906, as amended by Act of May 9, 1918; Act of June 25, 1936, as amended by Act of July 2, 1940, sections 317(b) and 323 of the Nationality Act of 1940 as amended by Acts of April 2, 1942, and August 7, 1946; Act of August 16, 1951, as amended by section 402(j) of the Immigration and Nationality Act of 1952; sections 324 and 327 of the Immigration and Nationality Act of 1952; Act of July 20, 1954).

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.54 Requirement of additional evidence of U.S. citizenship.

Nothing contained in §§ 51.43 through 51.53 shall prohibit the Department from requiring an applicant to submit other evidence

deemed necessary to establish his or her U.S. citizenship or nationality.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.55 Return or retention of evidence of citizenship.

The passport issuing office will generally return to the applicant submitted in connection with an application for passport facilities. However, the passport issuing office may retain evidence when it deems necessary.

Subpart D—Fees

Passport fees in the United States shall be paid in U.S. currency or by draft, check, or money order payable to the department of State or the Passport Office. Passport fees abroad shall be paid in U.S. currency, travelers checks, money order, or the equivalent value of the fees in local currency.

[31 F.R. 14522, Nov. 11, 1966]

§ 51.61 Passport fees.

Fees, including execution fees, shall be collected for the following passport services in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) A fee for each passport application filed, which fee shall vary depending on whether the passport applicant is a first-time applicant or a renewal applicant and on the age of the applicant. The passport application fee shall be paid by applicants at the time of application, except as provided in § 51.62(a), and is not refundable, except as provided in § 51.63. However, an applicant's denied application for a passport may be reconsidered without the payment of an additional passport application fee by the submission of adequate documentation within 90 days after the date of a notice of denial.

(b) A fee for execution of the passport application, except as provided in § 51.62(b), when the applicant is required to execute the application in person before a person authorized to administer oaths for passport purposes. This fee shall be collected as part of the passport issuance fee at the time of application and is not refundable (see 22 CFR 51.65). When execution services are provided by an official of a state or local government or of the United States Postal Services, the fee may be retained by that entity to cover the costs of service, pursuant to an appropriate agreement with the Department of State.

[63 F.R. 5103, January 30, 1998, as amended at 65 F.R. 14212, March 16, 2000]

§ 51.62 Exemption from payment of passport or execution fee.

(a) The following persons are exempt from the payment of passport fees:

(1) An officer or employee of the U.S. proceeding abroad on official business, or the members of his or her immediate family authorized to accompany or reside with him or her abroad. The applicant shall submit evidence of the official purpose of his or her travel and if applicable his or her authorization to have dependents accompany or reside with him or her abroad.

(2) An American sailor who requires a passport in connection with his or her duties aboard an American flag-vessel.

(3) A widow, child, parent, brother, or a sister of a deceased American service member proceeding abroad to visit the grave of such service member.

(4) An employees of the United Seamen's Service who requires a passport for travel to assume or perform duties thereof. The applicant shall submit with his or her application a letter from the United Seaman's Service certifying that he or she is proceeding abroad on official business to provide facilities and services for US. merchant seamen.

(b) No person described in paragraph (a)(1), (2), (3), or (4) of this section shall be required to pay an execution fee when his or her application is executed before a Federal official.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.656, 37 F.R. 6053, Mar. 24, 1972; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; redesignated from sec. 51.63 at 63 F.R. 5103, Jan. 30, 1998]

§ 51.63 Refunds.

A collected passport application fee shall be refunded:

(a) To any person exempt from the payment of passport fees under § 51.62 from whom fees were erroneously collected.

(b) For procedures on refunds of \$5.00 or less see § 22.6(b) of this title.

(c) The passport expedite fee will be refunded if the Passport Agency does not provide the requested expedited processing as defined in § 51.66.

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended at 52 F.R. 29515, Aug. 10, 1987; 59 F.R. 48999, Sept. 26, 1994; redesignated and amended at 63 F.R. 5103, Jan. 30, 1998; 65 F.R. 14212, Mar. 16, 2000]

§ 51.64 Replacement passports.

A passport issuing office shall issue a replacement passport without payment of a fee:

(a) To correct an error or rectify a mistake of the Department.

(b) When exceptional circumstances exist as determined by the Secretary.

[31 F.R. 13540, Oct. 20, 1966; redesignated at 63 F.R. 5103, Jan. 30, 1998]

§ 51.65 Execution fee not refundable.

The fee for the execution of a passport application cannot be refunded.

[31 F.R. 13540, Oct. 20, 1966; redesignated at 63 F.R. 5103, Jan. 30, 1998]

§ 51.66 Expedited passport processing.

(a) Within the United States, an applicant for a passport service (including issuance, amendment, extension or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a U.S. Passport Agency.

(b) Expedited passport processing shall mean completing processing within 3-business days commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked up by the applicant or is mailed to the applicant.

(c) A fee shall be collected for expedited processing service in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1). This amount will be in addition to any other applicable fee and does not include urgent mailing costs, if any.

(d) A request for expedited processing normally will be accepted only if the applicant can document urgent departure with airline tickets showing confirmed reservation or similar evidence. The Passport Agency may decline to accept the request if it is apparent at the time it is made that the request cannot be granted.

(e) The expedite fee may be waived only where the need for expedited processing was necessary due to Department error, mistake or delay.

[Added by 59 F.R. 49000, Sept. 26, 1994; redesignated and amended at 63 F.R. 5103, Jan. 30, 1998]

Subpart E—Limitation on Issuance or Extension of Passports

§ 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a court order committing him or her to a mental institution; or

(4) The applicant is the subject of a request for extradition or provisional arrest for extradition which has been presented to the government of a foreign country; or

(5) The applicant is the subject of a subpoena issued pursuant to section 1783 of title 28, United States Code, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(6) The applicant has not repaid a loan received from the United States as prescribed under §§ 71.10 and 71.11 of this chapter; or

(7) The applicant is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(8) The applicant has been certified by the Secretary of Health and Human Services as notified by a State agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount exceeding \$5,000.00.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant has not repaid a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(2) The applicant has been legally declared incompetent unless accompanied on his or her travel abroad by the guardian or other person responsible for the national's custody and well-being; or

(3) The applicant is under the age of 18 years, unmarried and not in the military service of the United States unless a person having legal custody of such national authorizes issuance of the passport and agrees to reimburse the United States for any monies advanced by the United States for the minor to return to the United States; or

(4) The Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States; or

(5) The applicant has been the subject of a prior adverse action under this section or § 51.71 and has not shown that a change in circumstances since the adverse action warrants issuance of a passport; or

(6) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 the United States Code.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 F.R. 8531, Mar. 1, 1989; as amended at 62 F.R. 62695, Nov. 25, 1997]

§ 51.71 Denial of passports to certain convicted drug traffickers.

(a) A passport shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an

international border in committing the offense, including a felony conviction arising under:

(1) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 et seq.); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 et seq.) or the money Laundering Act (18 U.S.C. 1956 et seq.) if the Secretary of State is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The Federal statutes described in § 51.71(a); or

(2) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding paragraphs (a) and (b) of this section the Secretary of State may issue a passport when the competent authority confirms, or the Secretary of State otherwise finds, that emergency circumstances or humanitarian reasons exist.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 F.R. 8532, Mar. 1, 1989].

§ 51.72 Revocation or restriction of passports.

A passport may be revoked or restricted or limited where:

(a) The national would not be entitled to issuance of a new passport under § 51.70 or § 51.71; or

(b) The passport has been obtained by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

[54 F.R. 8532, Mar. 1, 1989; as amended at 64 F.R. 19714, Apr. 22, 1999]

§ 51.73 Passports invalid for travel into or through restricted areas.

(a) Unless specifically validated therefore, U.S. passports shall cease to be valid for travel into or through a country or area which the Secretary has determined is:

(1) A country with which the United States is at war, or

(2) A country or area where armed hostilities are in progress;
or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

(b) Any determination made under paragraph (a) of this section shall be published in the FEDERAL REGISTER along with a statement of the circumstances requiring this restriction.

(c) Unless limited to a shorter period, any such restriction shall expire at the end of one year from the date of publication of such notice in the FEDERAL REGISTER, unless extended or sooner revoked by the Secretary by public notice.

[Dept. Reg. 108.786, 45 F.R. 11128, Feb. 20, 1980; redesignated by 54 F.R. 8532, Mar. 1, 1989]

§ 51.74 Special validation of passports for travel to restricted areas.

(a) A United States National wishing a validation of his passport for travel to, in or through a restricted country or area may apply for a special validation to the Office of Passport Services, a passport agency, or a foreign service post authorized to issue passports. The application shall be accompanied by evidence that the applicant falls within the standards set out in paragraph (c) of this section.

(b) The Assistant Secretary of State for Consular Affairs or an authorized designee of that official shall decide whether or not to grant a special validation. The special validation shall be granted only when such action is determined to be in the national interest of the United States.

(c) An application may be considered if:

(1) The applicant is a professional reporter, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the American Red Cross; or

(3) The applicant establishes that his or her trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

(Sec. 1, 44 Stat. 887, as amended (22 U.S.C. 211a); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658); E.O. 11295, 36 F.R. 10603; 3 CFR 1966-70 Comp., 507; E.O. 12211, 45 F.R. 26685)

[Dept. Reg. 108.790, 45 F.R. 30619, May 9, 1980; redesignated by 54 F.R. 8532, Mar. 1, 1989]

§ 51.75 Notification of denial or withdrawal of passport.

Any person whose application for issuance of a passport has been denied, or who has otherwise been the subject of an adverse action taken on an individual basis with respect to his or her right to receive or use a passport shall be entitled to notification in writing of the adverse action. The notification shall set forth the specific reasons for the adverse action and the procedures for review available under § 51.81 through 51.105.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.76 Surrender of passport.

The bearer of a passport which is revoked shall surrender it to the Department or its authorized representative upon demand and upon his or her refusal to do so such passport may be invalidated by notifying the bearer in writing of the invalidation.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

Subpart F—Procedures for Review of Adverse Action²

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 do not apply to any action of the Secretary of State taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

- (1) Noncitizenship,
- (2) Refusal under the provisions of § 51.70(a)(8),
- (3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or
- (4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or § 51.72.

[65 F.R. 39288, June 26, 2000]

§ 51.81 Time limits on hearing to review adverse action.

A person who has been the subject of an adverse action with respect to his or her right to receive or use a passport shall be entitled, upon request made within 60 days after receipt of notice of such adverse action, to require the Department or the appropriate Foreign Service post, as the case may be, to establish the basis for its action in a proceeding before a hearing officer. If no such request is made within 60 days, the adverse action will be considered final and not subject to further administrative review. If such request is made within 60 days the adverse action shall be automatically vacated unless such proceeding is initiated by the Department or the appropriate Foreign Service post, as the case may be within 60 days after request, or such longer period as is requested by the person adversely affected and agreed to by the hearing officer.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

²Sections 51.90 through 51.105 were removed by 44 F.R. 68827 (November 30, 1979).

§ 51.82 Notice of hearing.

The person adversely affected shall receive not less than 5 business days' notice in writing of the scheduled date and place of the hearing.

§ 51.83 Functions of the hearing officer.

The hearing officer shall act on all requests for review under § 51.81. He shall make findings of fact and submit recommendations to the Deputy Assistant Secretary for Passport Services in the Bureau of Consular Affairs. In making his or her findings and recommendations, the hearing officer shall not consider confidential security information unless that information is made available to the person adversely affected and is made part of the record of the hearing.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 64 F.R. 19715, Apr. 22, 1999]

§ 51.84 Appearance at hearing.

The person adversely affected may appear at the hearing in person or with his or her attorney, or by his or her attorney. The attorney must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States or be admitted to practice before the courts of the country in which the hearing is to be held.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.637, 36 F.R. 9068, May 19, 1971; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 64 F.R. 19715, Apr. 22, 1999]

§ 51.85 Proceedings before the hearing officer.

The person adversely affected may appear and testify in his or her own behalf and may himself, or by his or her attorney, present witnesses and offer other evidence and make argument. If any witness whom the person adversely affected wishes to call is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit by the witness or order evidence to be taken by deposition. The person adversely affected shall be entitled to be informed of all the evidence before the hearing officer and of the source of such evidence, and shall be entitled to confront and cross-examine any adverse witness. The person shall, upon request by the hearing officer, confirm his or her oral statements in an affidavit for the record.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.86 Admissibility of evidence.

The person adversely affected and the Department may introduce such evidence as the hearing officer deems proper. Formal

rules of evidence shall not apply, but reasonable restrictions shall be imposed as to relevancy, competency and materiality of evidence presented.

§ 51.87 Privacy of hearing.

The hearing shall be private. There shall be present at the hearing only the person adversely affected, his or her attorney, the hearing officer, official stenographers, employees of the Department directly concerned with the presentation of the case, and the witnesses. Witnesses shall be present at the hearing only while actually giving testimony or when otherwise directed by the hearing officer.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.88 Transcript of hearing.

A complete verbatim stenographic transcript shall be made of the hearing by a qualified reporter, and the transcript shall constitute a permanent part of the record. Upon request, the appellant or his or her counsel shall be entitled to inspect the complete transcript and to purchase a copy thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

[64 F.R. 19715, Apr. 22, 1999]

PART 52—MARRIAGES

Sec.

52.1 Celebration of marriage.

52.2 Authentication of marriage and divorce documents.

52.3 Certification as to marriage laws.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

SOURCE: Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966, unless otherwise noted.

§ 52.1 Celebration of marriage.

Foreign Service officers are forbidden to celebrate marriages.

§ 52.2 Authentication of marriage and divorce documents.

(a) Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, "For the contents of the annexed document, the Consulate (General) assumes no responsibility."

(b) A consular officer shall include the same statement in certificates of authentication accompanying decrees of divorce.

[31 F.R. 13546, Oct. 20, 1966; redesignated by 51 F.R. 26247, July 22, 1986]

§ 52.3 Certification as to marriage laws.

Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate with respect to such laws.

[31 F.R. 13546, Oct. 20, 1966; redesignated by 51 F.R. 26247, July 22, 1986]

PART 53—TRAVEL CONTROL OF CITIZENS OF UNITED STATES IN TIME OF WAR OR NATIONAL EMERGENCY

Sec.

53.1 Passport requirement.

53.2 Exceptions.

53.3 Attempt of a citizen to enter without a valid passport.

53.4 Optional use of a valid passport.

AUTHORITY: 8 U.S.C. 1185. Proc. 3004, 18 F.R. 489; 3 CFR, 1949-1953 Comp., p. 180.

SOURCE: Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966, unless otherwise noted.

§ 53.1 Passport requirement.

Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), it is unlawful except as otherwise provided for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.

§ 53.2 Exceptions.

A U.S. citizen is not required to bear a valid passport to enter or depart the United States:

(a) When traveling directly between parts of the United States as defined in § 50.1 of this chapter;

(b) When traveling between the United States and any country, territory, or island adjacent thereto in North, South or Central America excluding Cuba; provided, that this exception is not applicable to any such person when proceeding to or arriving from a place outside the United States for which a valid passport is required under this part if such travel is accomplished within 60 days of departure from the United States via

any country or territory in North, South or Central America or any island adjacent thereto;

(c) When traveling as a bona fide seaman or air crewman who is the holder of record of a valid merchant mariner identification document or air crewman identification card;

(d) When traveling as a member of the Armed Forces of the United States on active duty;

(e) When he is under 21 years of age and is a member of the household of an official or employee of a foreign government or of the United Nations and is in possession of or included in a foreign passport;

(f) When he is a child under 12 years of age and is included in the foreign passport of an alien parent; however, such child will be required to provide evidence of his U.S. citizenship when entering the United States;

(g) When the citizen entering the United States presents a card of identity and registration issued by a consular office abroad to facilitate travel to the United States; or

(h) When specifically authorized by the Secretary of State through appropriate official channels to depart from or enter the United States, as defined in § 50.1 of this chapter. The fee for a waiver of the passport requirement under this section shall be collected in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

[Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966; as amended by Dept. Reg. 108.666, 37 F.R. 11459, June 8, 1972; 51 F.R. 26247, July 22, 1986]

§ 53.3 Attempt of a citizen to enter without a valid passport.

The appropriate officer at the port of entry shall report to the Secretary of State for the purpose of invoking the waiver provisions of § 53.2(h), any citizen of the United States who attempts to enter the United States contrary to the provisions of this part.

§ 53.4 Optional use of a valid passport.

Nothing in this part shall be construed to prevent a citizen from using a valid passport in a case in which that passport is not required by this Part 53, provided such travel is not otherwise prohibited.

c. Passport Limitations

(1) Allegiance to the United States

Act of July 14, 1902 [R.S. Sec. 4076], 32 Stat. 386; 22 U.S.C. 212

No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States.

(2) Application for Passport

Partial text of Act of June 15, 1917 [H.R. 291], 40 Stat. 217 at 227; 22 U.S.C. 213, as amended by Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968

Section 1. Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. If the applicant has not previously been issued a United States passport, the application shall be duly verified by his oath before a person authorized and empowered by the Secretary of State to administer oaths.

NOTE.—See, however, *Woodward v. Rogers*, 344 F. Supp. 974 (D.C.D.C. 9 1972); aff., 486 F. 2d 1317 (D.C. Cir. 1973).

(3) Fees

Partial text of the Act of June 4, 1920¹ [H.R. 11960], 41 Stat. 739 at 750; 22 U.S.C. 214, as amended by Public Law 84-403 [H.R. 5844], 70 Stat. 11, approved February 10, 1956; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; Public Law 92-14 [S. 531], 85 Stat. 38, approved May 14, 1971; Public Law 93-417 [H.R. 15172], 88 Stat. 1151, approved September 17, 1974; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279, approved August 24, 1982; Public Law 104-208 [Department of State and Related Agencies Appropriations Act, 1997; title IV of sec. 101(a) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999

There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for the filing of each application for a passport (including the cost of passport issuance and use)² and a fee, prescribed by the Secretary of State by regulation, for executing each such application,³ except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service.^{4, 5} Such fees shall not be refundable, ex-

¹ Often referred to as the Passport Act, or the Passport Act of June 4, 1920. Sec. 233(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536) struck out sec. 4 of this Act (22 U.S.C. 216), "effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended". Sec. 4 had provided as follows:

"Whenever the appropriate officer within the United States of any foreign country refuses to visa a passport issued by the United States, the Department of State is authorized upon request in writing and the return of the unused passport within six months from the date of issue to refund to the person to whom the passport was issued the fees which have been paid to Federal officials, and the money for that purpose is appropriated and direct to be paid upon the order of the Secretary of State."

² Sec. 233(a)(1)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "each passport issued" and inserted in lieu thereof "the filing of each application for a passport (including the cost of passport issuance and use)". The amendment is "effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended", pursuant to sec. 233(c) of the Nance/Donovan Act.

³ Sec. 233(a)(1)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "each application for a passport" and inserted in lieu thereof "each such application". The amendment is "effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended", pursuant to sec. 233(c) of the Nance/Donovan Act.

⁴ Sec. 116(a) of Public Law 97-241 (96 Stat. 279) amended and restated this sentence. Previously, this sentence established a fee of \$10 for each passport issued in addition to the fee prescribed by the Secretary of State for executing each application. Sec. 407(1) of the Department of State Appropriations Act, 1997 (title IV of sec. 101(a) of title I of Public Law 104-208; 110 Stat. 3009), added "; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service".

cept as the Secretary may by regulation prescribe.⁶ No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his immediate family; from an American seaman who requires a passport in connection with his duties aboard an American-flag vessel; or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member. No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

⁵Sec. 407(2) of the Department of State Appropriations Act, 1997 (title IV of sec. 101(a) of title I of Public Law 104-208; 110 Stat. 3009), struck out a sentence after this point, which read: "Nothing contained in this section shall be construed to limit the right of the Secretary of State by regulation (1) to authorize State officials to collect and retain the execution fee, or (2) to transfer to the United States Postal Service the execution fee for each application accepted by that Service."

⁶Sec. 233(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added this sentence. The amendment is "effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended", pursuant to sec. 233(c) of the Nance/Donovan Act.

(4) Ten Year Validity of Passport

Partial text of the Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 217a, as amended by Public Law 71-488 [H.R. 10826], 46 Stat. 839, approved July 1, 1930; Public Law 72-136 [H.R. 9393], 47 Stat. 157, approved May 16, 1932; Public Law 86-267 [S. 1973], 73 Stat. 552, approved September 14, 1959; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; and by Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279, approved August 24, 1982

Sec. 2.¹ A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.

¹Sec. 116(b) of Public Law 97-241 (96 Stat. 279) amended and restated sec. 2 and applied only to passports issued after the date of enactment of Public Law 97-241 (August 24, 1982). Formerly, sec. 2 had provided that a passport would be valid for 5 years.

d. Travel Documentation of Aliens and Citizens¹

Partial text of Public Law 82-414 [Immigration and Nationality Act of 1952; H.R. 5678], 66 Stat. 190, approved June 27, 1952; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994

* * * * *

SEC. 215.² (a) Unless otherwise ordered by the President, it shall be unlawful—³

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b)⁴ Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United

¹ See also "Privileges and Immunities" in sec. H.

² 8 U.S.C. 1185.

³ Sec. 707 of Public Law 95-426 (92 Stat. 992) struck out the words to this point in sec. 215(a) and added this phrase.

⁴ Subsec. (b) was amended and restated by sec. 707(b) of Public Law 95-426 (92 Stat. 992).

States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States⁵ passport.

(c)⁶ The term “United States” as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term “person” as used in this section shall be deemed to mean by individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d)⁶ Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if upon arrival in the United States, he is found to be inadmissible under any of the provisions of this Act, or any other law, relating to the entry of aliens into the United States.

(e)⁶ The revocation of any⁷ rule, regulation, or order issued in pursuance of this section shall not prevent prosecution, for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such⁷ rule, regulation, or order.

(f)⁶ Passports, visas, reentry permits, and other documents required for entry under this Act may be considered as permits to enter for the purposes of this section.

⁵Sec. 204(a) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4311) inserted “United States” after “valid”, effective on or after October 25, 1994, for any departures and entries (and attempts thereof).

⁶Sec. 707(d) of Public Law 95-426 (92 Stat. 993) struck out subsec. (c) and redesignated subsecs. (d), (e), (f), and (g) as subsecs. (c), (d), (e), and (f), respectively.

⁷Sec. 707(c) of Public Law 95-426 (92 Stat. 993) struck out the word “proclamation” which previously appeared at this point.

e. Criminal Provisions

(1) Punishable Violations

18 U.S.C. 1541–1546, as added by Public Law 80–772 [H.R. 3190], 62 Stat. 683 at 771, approved June 25, 1948; and amended by the Act of June 27, 1952 (66 Stat. 275); Public Law 94–550 (90 Stat. 2535), approved October 18, 1976; Public Law 99–603 (100 Stat. 3380), approved November 6, 1986; Public Law 100–525 (102 Stat. 2610), approved October 24, 1988; Public Law 101–647 (104 Stat. 4926), approved November 29, 1990; Public Law 103–322 [Violent Crime Control and Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 104–208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1996; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 104–294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996

§ 1541. Issuance Without Authority.

Whoever, acting or claiming to act in any office or capacity under the United States, or a State,¹ without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),² or both.

¹Sec. 607(n)(1) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3512) struck out “or possession” after “or a State”.

²Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)”.

Previously, sec. 130009(a) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$500 or imprisoned not more than one year” and inserted in lieu thereof “under this title, imprisoned not more than ten years”.

Sec. 330016(1)(G) of the same Act also struck out “not more than \$500” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

For³ purposes of this section, the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

§ 1542. False Statement in Application and Use of Passport.

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),⁴ or both.

§ 1543. Forgery or False Use of Passport.

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined not under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug

³Sec. 607(n)(2) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3512) added this paragraph.

⁴Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)”.

Previously, sec. 130009(a)(2) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$2,000 or imprisoned not more than five years” in secs. 1542, 1543, and 1544, and inserted in lieu thereof “under this title, imprisoned not more than 10 years”.

Sec. 330016(1)(I) of the same Act also struck out “not more than \$2,000” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

trafficking crime), or 15 years (in the case of any other offense),⁴ or both.

§ 1544. Misuse of Passport.

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses, or attempts to use, any passport in violation of the conditions or restrictions therein contained or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),⁴ or both.

§ 1545. Safe Conduct Violation.

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined under this title, imprisoned not more than 10 years,⁵ or both.

§ 1546. Fraud and Misuse of Visas, Permits, and Other Documents.⁶

(a)⁷ Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States,⁸ or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States,⁸ knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or

⁵Sec. 130009(a)(3) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$2,000 or imprisoned not more than three years” and inserted in lieu thereof “under this title, imprisoned not more than 10 years”.

Sec. 330016(1)(I) of the same Act also struck out “not more than \$2,000” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

⁶Public Law 99–603, as amended by Public Law 100–525, substituted “Other Documents” in lieu of “Other Entry Documents” in section catchline.

The Act of June 27, 1952, made this section applicable to entry documents other than visas and permits.

⁷Public Law 99–603, as amended by Public Law 100–525, designated existing text as subsec. (a), and added subsecs. (b) and (c).

⁸Public Law 99–603, as amended by Public Law 100–525, substituted “permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States” in lieu of “or other document required for entry into the United States” and in lieu of “or document” in first paragraph.

statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,⁹ any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—¹⁰

Shall be fined under this title¹¹ or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),¹² or both.

⁹Public Law 94–550 inserted “, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,” after “Whoever knowingly makes under oath”.

¹⁰Sec. 214 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “containing any such false statement” and inserted in lieu thereof “which contains any such false statement or which fails to contain any reasonable basis in law or fact”.

¹¹Sec. 3550 of Public Law 101–647 (104 Stat. 4926), as amended, struck out “Shall be fined in accordance with this title”, and inserted in lieu thereof “Shall be fined under this title”. Previously, Public Law 99–603, as amended by Public Law 100–525, substituted “in accordance with this title” in lieu of “not more than \$2,000”.

¹²Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was

(b)⁷ Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years,¹³ or both.

(c)⁷ This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970.¹⁴ For purposes of this section, the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.¹⁵

not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)."

Previously, sec. 130009(a)(4) of Public Law 103–322 (108 Stat. 2030) struck out “five years” and inserted in lieu thereof “10 years”.

¹³Sec. 130009(a)(5) of Public Law 103–322 (108 Stat. 2030) struck out “in accordance with this title, or imprisoned not more than two years” and inserted in lieu thereof “under this title, imprisoned not more than 5 years”.

¹⁴Public Law 91–452 (84 Stat. 933), was repealed by sec. 1209(b) of Public Law 98–473.

¹⁵Sec. 607(m) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3512) added this sentence.

(2) Statute of Limitations

Partial text of Act of June 30, 1951 [H.R. 2396], 65 Stat. 107, 18 U.S.C. 3291

AN ACT To amend chapter 213 of title 18 of the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 213 of title 18 of the United States Code be amended by adding a new section to be known as section 3291, as follows:

“§ 3291. Nationality, citizenship and passports.

“No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of such¹ sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense.”

¹Sec. 330008(9) of Public Law 103-322 (108 Stat. 2143) struck out “the afore-mentioned” and inserted in lieu thereof “such”.

5. Trafficking Victims Protection Act of 2000

Division A of Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000

AN ACT To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

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

* * * * *

DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

SEC. 101.¹ SHORT TITLE.

This division may be cited as the “Trafficking Victims Protection Act of 2000”.

SEC. 102.² PURPOSES AND FINDINGS.

(a) **PURPOSES.**—The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) **FINDINGS.**—Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack

¹ 22 U.S.C. 7101 note.

² 22 U.S.C. 7101.

of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Con-

gress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and

trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 103.³ DEFINITIONS.

In this division:

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

(2) **COERCION.**—The term “coercion” means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

³ 22 U.S.C. 7102.

(3) **COMMERCIAL SEX ACT.**—The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

(4) **DEBT BONDAGE.**—The term “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) **INVOLUNTARY SERVITUDE.**—The term “involuntary servitude” includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(6) **MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**—The term “minimum standards for the elimination of trafficking” means the standards set forth in section 108.

(7) **NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE.**—The term “nonhumanitarian, nontrade-related foreign assistance” means—

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

(i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to

reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) SEVERE FORMS OF TRAFFICKING IN PERSONS.—The term “severe forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subsection to involuntary servitude, peonage, debt bondage, or slavery.

(9) SEX TRAFFICKING.—The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) TASK FORCE.—The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) UNITED STATES.—The term “United States” means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) VICTIM OF A SEVERE FORM OF TRAFFICKING.—The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (8).

(14) VICTIM OF TRAFFICKING.—The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (8) or (9).

SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows: * * *⁴

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection: * * *⁴

SEC. 105.⁵ INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

(a) ESTABLISHMENT.—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) APPOINTMENT.—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Ad-

⁴Should refer to 22 U.S.C. 2151n(f). For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁵22 U.S.C. 7103.

ministrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Secretary of State.

(d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

(e) SUPPORT FOR THE TASK FORCE.—The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

SEC. 106.⁶ PREVENTION OF TRAFFICKING.

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of

⁶ 22 U.S.C. 7104.

trafficking as a method to deter trafficking. Such initiatives may include—

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic decisionmaking;

(3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) PUBLIC AWARENESS AND INFORMATION.—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) CONSULTATION REQUIREMENT.—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

SEC. 107.⁷ PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) VICTIMS IN THE UNITED STATES.—

(1) ASSISTANCE.—

(A) ELIGIBILITY FOR BENEFITS AND SERVICES.—Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or

⁷ 22 U.S.C. 7105.

State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES.—Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—For the purposes of this paragraph, the term “victim of a severe form of trafficking in persons” means only a person—

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) ANNUAL REPORT.—Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(E) CERTIFICATION.—

(i) IN GENERAL.—Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in

order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS.—A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED.—For the purpose of a certification under this subparagraph, the term “investigation and prosecution” includes—

- (I) identification of a person or persons who have committed severe forms of trafficking in persons;
- (II) location and apprehension of such persons; and
- (III) testimony at proceedings against such persons.

(2) GRANTS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims’ service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) ALLOCATION OF GRANT FUNDS.—Of amounts made available for grants under this paragraph, there shall be set aside—

- (i) three percent for research, evaluation, and statistics;
- (ii) two percent for training and technical assistance; and
- (iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY.—Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

- (A) not be detained in facilities inappropriate to their status as crime victims;
- (B) receive necessary medical care and other assistance; and
- (C) be provided protection if a victim’s safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION.—Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) TRAINING OF GOVERNMENT PERSONNEL.—Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) CONSTRUCTION.—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—* * *

(2) CONDITIONS OF NONIMMIGRANT STATUS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—* * *

(3) WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following:
* * *

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO “T” VISA NONIMMIGRANTS.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection: * * *

(5) STATUTORY CONSTRUCTION.—Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) **ADJUSTMENT TO PERMANENT RESIDENT STATUS.**—Section 245 of such Act (8 U.S.C 1255) is amended by adding at the end the following new subsection: * * *

(g) **ANNUAL REPORTS.**—On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section 214(n)(1) or 245(l)(4)(A) of such Act.

SEC. 108.⁸ MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) **MINIMUM STANDARDS.**—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) **CRITERIA.**—In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

⁸ 22 U.S.C. 7106.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

“SEC. 134.⁹ ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.
* * *

SEC. 110.¹⁰ ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) **STATEMENT OF POLICY.**—It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) **REPORTS TO CONGRESS.**—

(1) **ANNUAL REPORT.**—Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congress-

⁹ 22 U.S.C. 2152d. See *Legislation on Foreign Relations Through 2001*, vol. I-A.

¹⁰ 22 U.S.C. 7107.

sional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) INTERIM REPORTS.—In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.

(3) SIGNIFICANT EFFORTS.—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION.—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS.—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE.—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY.—

- (A) **IN GENERAL.**—The President may exercise the authority under paragraph (4) with respect to—
- (i) all nonhumanitarian, nontrade-related foreign assistance to a country;
 - (ii) all multilateral assistance described in paragraph (1)(B) to a country; or
 - (iii) one or more programs, projects, or activities of such assistance.
- (B) **AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS.**—The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.
- (6) **DEFINITION OF MULTILATERAL DEVELOPMENT BANK.**—In this subsection, the term “multilateral development bank” refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.
- (e) **CERTIFICATION.**—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

SEC. 111.¹¹ ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.

(a) **AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS.**—

(1) **IN GENERAL.**—The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

- (A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.
- (B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).
- (C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) **PENALTIES.**—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C.

¹¹22 U.S.C. 7108.

1705) apply to violations of any license, order, or regulation issued under this section.

(b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) REMOVAL OF SANCTIONS.—Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) SUBMISSION OF CLASSIFIED INFORMATION.—Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

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

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph: * * *

(e) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) PROMULGATION OF RULES AND REGULATIONS.—The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) OPPORTUNITY FOR REVIEW.—Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f) DEFINITION OF FOREIGN PERSONS.—In this section, the term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) CONSTRUCTION.—Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

SEC. 112.¹² STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) TITLE 18 AMENDMENTS.—Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking “10 years” and inserting “20 years”; and

(B) by adding at the end the following: “If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”;

(2) by inserting at the end the following:

“§ 1589. Forced labor

“Whoever knowingly provides or obtains the labor or services of a person—

“(1) by threats of serious harm to, or physical restraint against, that person or another person;

“(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

“(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

“§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

“Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

“§ 1591. Sex trafficking of children or by force, fraud or coercion

“(a) Whoever knowingly—

¹²22 U.S.C. 7109.

“(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

“(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

“(b) The punishment for an offense under subsection (a) is—

“(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

“(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

“(c) In this section:

“(1) The term ‘commercial sex act’ means any sex act, on account of which anything of value is given to or received by any person.

“(2) The term ‘coercion’ means—

“(A) threats of serious harm to or physical restraint against any person;

“(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

“(C) the abuse or threatened abuse of law or the legal process.

“(3) The term ‘venture’ means any group of two or more individuals associated in fact, whether or not a legal entity.

“§ 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

“(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

“(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

“(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

“(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

“(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

“§ 1593. Mandatory restitution

“(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

“(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the court under paragraph (3) of this subsection.

“(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

“(3) As used in this subsection, the term ‘full amount of the victim’s losses’ has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

“(c) As used in this section, the term ‘victim’ means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim’s estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

“§ 1594. General provisions

“(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

“(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

“(1) such person’s interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

“(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

“(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

“(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

“(d) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).”; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items: * * *

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

- (i) involve a large number of victims;
- (ii) involve a pattern of continued and flagrant violations;
- (iii) involve the use or threatened use of a dangerous weapon; or
- (iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 113.¹³ AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE.—To carry out the purposes of sections 104, 105, and 110,

¹³22 U.S.C. 7110.

there are authorized to be appropriated to the Secretary of State \$1,500,000 for fiscal year 2001 and \$3,000,000 for fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE.—

(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) VOLUNTARY CONTRIBUTIONS TO OSCE.—To carry out the purposes of section 109, there are authorized to be appropriated to the Secretary of State \$300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for fiscal year 2001.

(3) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS.—To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, including the preparation and publication of the list described in subsection (a)(1) of that section.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(e) AUTHORIZATION OF APPROPRIATIONS TO PRESIDENT.—

(1) FOREIGN VICTIM ASSISTANCE.—To carry out the purposes of section 106, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.—To carry out the purposes of section 109, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

* * * * *

6. International Religious Freedom Act of 1998

Public Law 105-292 [H.R. 2431], 112 Stat. 2787, approved on October 27, 1998; amended by Public Law 106-55 [S. 1546], 113 Stat. 401, approved August 17, 1999; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT To express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

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

SECTION 1.¹ SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “International Religious Freedom Act of 1998”.

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

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SEC. 2.² FINDINGS; POLICY.

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

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation’s founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

² 22 U.S.C. 6401.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that "Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.". Article 18(1) of the International Covenant on Civil and Political Rights recognizes that "Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching". Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of "religious police", severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic,

and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) POLICY.—It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961, in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

SEC. 3.³ DEFINITIONS.

In this Act:

(1) AMBASSADOR AT LARGE.—The term “Ambassador at Large” means the Ambassador at Large for International Religious Freedom appointed under section 101(b).

(2) ANNUAL REPORT.—The term “Annual Report” means the Annual Report on International Religious Freedom described in section 102(b).

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

³ 22 U.S.C. 6402.

(A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and

(B) in the case of any determination made with respect to the taking of President action under paragraphs (9) through (15) of section 405(a), the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) COMMENSURATE ACTION.—The term “commensurate action” means action taken by the President under section 405(b).

(5) COMMISSION.—The term “Commission” means the United States Commission on International Religious Freedom established in section 201(a).

(6) COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The term “Country Reports on Human Rights Practices” means the annual reports required to be submitted by the Department of State to Congress under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

(7) EXECUTIVE SUMMARY.—The term “Executive Summary” means the Executive Summary to the Annual Report, as described in section 102(b)(1)(F).

(8) GOVERNMENT OR FOREIGN GOVERNMENT.—The term “government” or “foreign government” includes any agency or instrumentality of the government.

(9) HUMAN RIGHTS REPORTS.—The term “Human Rights Reports” means all reports submitted by the Department of State to Congress under sections 116 and 502B of the Foreign Assistance Act of 1961.

(10) OFFICE.—The term “Office” means the Office on International Religious Freedom established in section 101(a).

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(12) SPECIAL ADVISER.—The term “Special Adviser” means the Special Adviser to the President on International Religious Freedom described in section 101(i) of the National Security Act of 1947, as added by section 301 of this Act.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

- (A) arbitrary prohibitions on, restrictions of, or punishment for—
- (i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
 - (ii) speaking freely about one’s religious beliefs;
 - (iii) changing one’s religious beliefs and affiliation;
 - (iv) possession and distribution of religious literature, including Bibles; or
 - (v) raising one’s children in the religious teachings and practices of one’s choice; or
- (B) any of the following acts if committed on account of an individual’s religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

TITLE I—DEPARTMENT OF STATE ACTIVITIES

SEC. 101.⁴ OFFICE ON INTERNATIONAL RELIGIOUS FREEDOM; AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

(a) **ESTABLISHMENT OF OFFICE.**—There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) **APPOINTMENT.**—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **DUTIES.**—The Ambassador at Large shall have the following responsibilities:

(1) **IN GENERAL.**—The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) **ADVISORY ROLE.**—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate freedom of religion or that fail to ensure the individual’s right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) **DIPLOMATIC REPRESENTATION.**—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the

⁴22 U.S.C. 6411.

United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(d) FUNDING.—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

SEC. 102.⁵ REPORTS.

(a) PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—

(1) DEADLINE FOR SUBMISSION.—On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) STATUS OF RELIGIOUS FREEDOM.—A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country; and

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country.

(B) VIOLATIONS OF RELIGIOUS FREEDOM.—An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, and the existence of government policies concerning—

⁵ 22 U.S.C. 6412.

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) UNITED STATES POLICIES.—A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) INTERNATIONAL AGREEMENTS IN EFFECT.—A description of any binding agreement with a foreign government entered into by the United States under section 401(b) or 402(c).

(E) TRAINING AND GUIDELINES OF GOVERNMENT PERSONNEL.—A description of—

(i) the training described in section 602(a) and (b) and section 603(b) and (c) on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 602(c) and 603(a).

(F) EXECUTIVE SUMMARY.—An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) COUNTRIES IN WHICH THE UNITED STATES IS ACTIVELY PROMOTING RELIGIOUS FREEDOM.—An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 402(b)(1) shall be included in this section of the report.

(ii) COUNTRIES OF SIGNIFICANT IMPROVEMENT IN RELIGIOUS FREEDOM.—An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, in-

cluding actions taken by the United States under this Act.

(2) CLASSIFIED ADDENDUM.—If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this Act, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) PREPARATION OF REPORTS REGARDING VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) STANDARDS AND INVESTIGATIONS.—The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(d) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) CONTENT OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—* * *

(2) CONTENTS OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended—* * *

SEC. 103.⁶ ESTABLISHMENT OF A RELIGIOUS FREEDOM INTERNET SITE.

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

SEC. 104.⁷ TRAINING FOR FOREIGN SERVICE OFFICERS.

Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section: * * *

⁶ 22 U.S.C. 6413.

⁷ Added sec. 708 to the Foreign Service Act of 1980 (at 22 U.S.C. 4028).

SEC. 105.⁸ HIGH-LEVEL CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

SEC. 106.⁹ PROGRAMS AND ALLOCATIONS OF FUNDS BY UNITED STATES MISSIONS ABROAD.

It is the sense of the Congress that—

- (1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and
- (2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

SEC. 107.¹⁰ EQUAL ACCESS TO UNITED STATES MISSIONS ABROAD FOR CONDUCTING RELIGIOUS ACTIVITIES.

(a) **IN GENERAL.**—Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) **TIMING AND LOCATION.**—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

- (1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);
- (2) conflicts with official activities and other nonofficial United States citizen requests;
- (3) the availability of openly conducted, organized religious services outside the premises of the mission or post;
- (4) availability of space and resources; and
- (5) necessary security precautions.

(c) **DISCRETIONARY ACCESS FOR FOREIGN NATIONALS.**—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

⁸22 U.S.C. 6414.

⁹22 U.S.C. 6415.

¹⁰22 U.S.C. 6416.

SEC. 108.¹¹ PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.

(a) SENSE OF THE CONGRESS.—To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.—The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM**SEC. 201.¹² ESTABLISHMENT AND COMPOSITION.**

(a) IN GENERAL.—There is established the United States Commission on International Religious Freedom.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) Nine other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) Three members of the Commission shall be appointed by the President.

(ii) Three members of the Commission shall be appointed by the President pro tempore of the Senate, of which two of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

¹¹ 22 U.S.C. 6417.

¹² 22 U.S.C. 6431.

(iii) Three¹³ members of the Commission shall be appointed by the Speaker of the House of Representatives, of which two of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) SECURITY CLEARANCES.—Each member of the Commission shall be required to obtain a security clearance.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 120 days after the date of the enactment of this Act.

(c) TERMS.—(1) IN GENERAL.—The¹⁴ term of office of each member of the Commission shall be 2 years. The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.¹⁵ Members of the Commission shall be eligible for reappointment to a second term.

(d) ELECTION OF CHAIR.—At the first meeting of the Commission in each calendar year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) QUORUM.—Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) MEETINGS.—Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been

¹³ Sec. 2(b) of Public Law 106–55 (113 Stat. 406) struck out “three” and inserted in lieu thereof “Three”.

¹⁴ Sec. 1(a)(1)(A) of Public Law 106–55 (113 Stat. 401) struck out “The” and inserted in lieu thereof “(1) IN GENERAL.—The”.

¹⁵ Sec. 1(a)(2) of Public Law 106–55 (113 Stat. 401) inserted “The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.”.

elected for that calendar year, at the call of six voting members of the Commission.

(g) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h)¹⁶ ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out the provisions of this title.

(i) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 202.¹⁷ DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.—The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.—The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy op-

¹⁶ Sec. 1(a)(3) of Public Law 106–55 (113 Stat. 401) amended and restated subsec. (h). It previously read as follows:

“ADMINISTRATIVE SUPPORT.—The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.”

¹⁷ 22 U.S.C. 6432.

tions, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) **EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.**—Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) **MONITORING.**—The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and non-governmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(f)¹⁸ * * * [Repealed—1999]

SEC. 203.¹⁹ POWERS OF THE COMMISSION.

(a) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

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

(d) **ADMINISTRATIVE PROCEDURES.**—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this title.

(e) **VIEWS OF THE COMMISSION.**—The Members of the Commission may speak in their capacity as private citizens. Statements on behalf of the Commission shall be issued in writing over the names of the Members. The Commission shall in its written statements clearly describe its statutory authority, distinguishing that authority from that of appointed or elected officials of the United States Government. Oral statements, where practicable, shall include a similar description.

¹⁸Sec. 1(b)(1) of Public Law 106–55 (113 Stat. 401) struck out subsec. (f), which had read as follows:

“(f) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this Act.”

¹⁹22 U.S.C. 6432a. Added by sec. 1(b)(3) of Public Law 106–55 (113 Stat. 401).

(f) TRAVEL.—The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purpose of this title. Each trip must be approved by a majority of the Commission. This provision shall not apply to the Ambassador-at-Large, whose travel shall not require approval by the Commission.

SEC. 204.²⁰ COMMISSION PERSONNEL MATTERS.

(a) IN GENERAL.—The Commission may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine members of the Commission.

(b) COMPENSATION.—The Commission may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) PROFESSIONAL STAFF.—The Commission and the Executive Director shall hire Commission staff on the basis of professional and nonpartisan qualifications. Commissioners may not individually hire staff of the Commission. Staff shall serve the Commission as a whole and may not be assigned to the particular service of a single Commissioner or a specified group of Commissioners. This subsection does not prohibit staff personnel from assisting individual members of the Commission with particular needs related to their duties.

(d) STAFF AND SERVICES OF OTHER FEDERAL AGENCIES.—

(1) DEPARTMENT OF STATE.—The Secretary of State shall assist the Commission by providing on a reimbursable or non-reimbursable basis to the Commission such staff and administrative services as may be necessary and appropriate to perform its functions.

(2) OTHER FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) SECURITY CLEARANCES.—The Executive Director shall be required to obtain a security clearance. The Executive Director may request, on a needs-only basis and in order to perform the duties of the Commission, that other personnel of the Commission be required to obtain a security clearance. The level of clearance shall be the lowest necessary to appropriately perform the duties of the Commission.

²⁰ 22 U.S.C. 6432b. Added by sec. 1(b)(3) of Public Law 106–55 (113 Stat. 401).

(f) **COST.**—The Commission shall reimburse all appropriate Government agencies for the cost of obtaining clearances for members of the commission, for the executive director, and for any other personnel.

SEC. 205.²¹ REPORT OF THE COMMISSION.

(a) **IN GENERAL.**—Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 202.

(b) **CLASSIFIED FORM OF REPORT.**—The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this Act.

(c) **INDIVIDUAL OR DISSENTING VIEWS.**—Each member of the Commission may include the individual or dissenting views of the member.

SEC. 206.²² APPLICABILITY OF OTHER LAWS.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 207.²³ AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Commission \$3,000,000 to carry out the provisions of this title.²⁴

(b) **AVAILABILITY OF FUNDS.**—Amounts authorized to be appropriated under subparagraph (a) are authorized to remain available until expended but not later than the date of termination of the Commission.

SEC. 208.²⁵ STANDARDS OF CONDUCT AND DISCLOSURE.

(a) **COOPERATION WITH NONGOVERNMENTAL ORGANIZATIONS, THE DEPARTMENT OF STATE, AND CONGRESS.**—The Commission shall seek to effectively and freely cooperate with all entities engaged in the promotion of religious freedom abroad, governmental and nongovernmental, in the performance of the Commission's duties under this title.

(b) **CONFLICT OF INTEREST AND ANTINEPOTISM.**—

(1) **MEMBER AFFILIATIONS.**—Except as provided in paragraph (3), in order to ensure the independence and integrity of the Commission, the Commission may not compensate any nongovernmental agency, project, or person related to or affiliated with any member of the Commission, whether in that member's direct employ or not. Staff employed by the Commission may not serve in the employ of any nongovernmental agency, project, or person related to or affiliated with any member of the Commission while employed by the Commission.

²¹ 22 U.S.C. 6433. Redesignated from sec. 203 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

²² 22 U.S.C. 6434. Redesignated from sec. 204 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

²³ 22 U.S.C. 6435. Redesignated from sec. 205 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

²⁴ Sec. 1(b)(4) of Public Law 106–55 (113 Stat. 403) struck out “for each of the fiscal years 1999 and 2000 to carry out the provisions of this title.” and inserted in lieu thereof “to carry out the provisions of this title.”

²⁵ 22 U.S.C. 6435a. Added by sec. 1(b)(5) of Public Law 106–55 (113 Stat. 403).

(2) STAFF COMPENSATION.—Staff of the Commission may not receive compensation from any other source for work performed in carrying out the duties of the Commission while employed by the Commission.

(3) EXCEPTION.—

(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) shall not apply to payments made for items such as conference fees or the purchase of periodicals or other similar expenses, if such payments would not cause the aggregate value paid to any agency, project, or person for a fiscal year to exceed \$250.

(B) LIMITATION.—Notwithstanding subparagraph (A), the Commission shall not give special preference to any agency, project, or person related to or affiliated with any member of the Commission.

(4) DEFINITIONS.—In this subsection, the term “affiliated” means the relationship between a member of the Commission and—

(A) an individual who holds the position of officer, trustee, partner, director, or employee of an agency, project, or person of which that member, or relative of that member of, the Commission is an officer, trustee, partner, director, or employee; or

(B) a nongovernmental agency or project of which that member, or a relative of that member, of the Commission is an officer, trustee, partner, director, or employee.

(c) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Commission may contract with and compensate Government agencies or persons for the conduct of activities necessary to the discharge of its functions under this title. Any such person shall be hired without interruption or loss of civil service or Foreign Service status or privilege. The Commission may not procure temporary and intermittent services under section 3109(b) of title 5, United States Code, or under other contracting authority other than that allowed under this title.

(2) EXPERT STUDY.—In the case of a study requested under section 605 of this Act, the Commission may, subject to the availability of appropriations, contract with experts and shall provide the funds for such a study. The Commission shall not be required to provide the funds for that part of the study conducted by the Comptroller General of the United States.

(d) GIFTS.—

(1) IN GENERAL.—In order to preserve its independence, the Commission may not accept, use, or dispose of gifts or donations of services or property. An individual Commissioner or employee of the Commission may not, in his or her capacity as a Commissioner or employee, knowingly accept, use or dispose of gifts or donations of services or property, unless he or she in good faith believes such gifts or donations to have a value of less than \$50 and a cumulative value during a calendar year of less than \$100.

(2) EXCEPTIONS.—This subsection shall not apply to the following:

(A) Gifts provided on the basis of a personal friendship with a Commissioner or employee, unless the Commissioner or employee has reason to believe that the gift was provided because of the Commissioner's position and not because of the personal friendship.

(B) Gifts provided on the basis of a family relationship.

(C) The acceptance of training, invitations to attend or participate in conferences or such other events as are related to the conduct of the duties of the Commission, or food or refreshment associated with such activities.

(D) Items of nominal value or gifts of estimated value of \$10 or less.

(E) De minimis gifts provided by a foreign leader or state, not exceeding a value of \$260. Gifts believed by Commissioners to be in excess of \$260, but which would create offense or embarrassment to the United States Government if refused, shall be accepted and turned over to the United States Government in accordance with the Foreign Gifts and Decorations Act of 1966 and the rules and regulations governing such gifts provided to Members of Congress.

(F) Informational materials such as documents, books, videotapes, periodicals, or other forms of communications.

(G) Goods or services provided by any agency or component of the Government of the United States, including any commission established under the authority of such Government.

(e) ANNUAL FINANCIAL REPORT.—In addition to providing the reports required under section 202, the Commission shall provide, each year no later than January 1, to the Committees on International Relations and Appropriations of the House of Representatives, and to the Committees on Foreign Relations and Appropriations of the Senate, a financial report detailing and identifying its expenditures for the preceding fiscal year.

SEC. 209.²⁶ TERMINATION.

The Commission shall terminate on May 14, 2003.²⁷

TITLE III—NATIONAL SECURITY COUNCIL

SEC. 301.²⁸ SPECIAL ADVISER ON INTERNATIONAL RELIGIOUS FREEDOM.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

“(i) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining in-

²⁶ 22 U.S.C. 6436. Redesignated from sec. 206 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

²⁷ Sec. 1(c) of Public Law 106–55 (113 Stat. 405) struck out “4 years after the initial appointment of all of the Commissioners” and inserted in lieu thereof “on May 14, 2003”.

²⁸ See *Legislation on Foreign Relations Through 2001*, vol. IV.

formation on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.”.

TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

SEC. 401.²⁹ PRESIDENTIAL ACTIONS IN RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) IN GENERAL.—

(A) UNITED STATES POLICY.—It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) REQUIREMENT OF PRESIDENTIAL ACTION.—For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) BASIS OF ACTIONS.—Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 405(c).

²⁹ 22 U.S.C. 6441.

(2) DEADLINE FOR ACTIONS.—Not later than September 1 of each year, the President shall take action under any of paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the preceding year, except that in the case of action under any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 403 and 404 have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 402(c)(3).

(c) IMPLEMENTATION.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) GUIDELINES FOR PRESIDENTIAL ACTIONS.—In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

SEC. 402.³⁰ PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) UNITED STATES POLICY.—It shall be the policy of the United States—

³⁰22 U.S.C. 6442.

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) REQUIREMENT OF PRESIDENTIAL ACTION.—Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) BASIS OF REVIEW.—Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) IMPLEMENTATION.—Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) DETERMINATIONS OF RESPONSIBLE PARTIES.—For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) CONGRESSIONAL NOTIFICATION.—Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) PRESIDENTIAL ACTIONS WITH RESPECT TO COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), (4), and (5)³¹ with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 403 and 404 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) PRESIDENTIAL ACTIONS.—One or more of the Presidential actions described in paragraphs (9) through (15) of section 405(a), as determined by the President.

(B) COMMENSURATE ACTIONS.—Commensurate action in substitution to any action described in subparagraph (A).

(2) SUBSTITUTION OF BINDING AGREEMENTS.—

(A) IN GENERAL.—In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 405(c). The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this title.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period, then the President shall not be required to take action until the expiration of that period of time.

(4)³² EXCEPTION FOR ONGOING PRESIDENTIAL ACTION UNDER THIS ACT.—The President shall not be required to take action pursuant to this subsection in the case of a country of particu-

³¹Sec. 2(1) of Public Law 106–55 (113 Stat. 405) struck out “and (4)” and inserted in lieu thereof “(4), and (5)”.

³²Sec. 2(2)(a) of Public Law 106–55 (113 Stat. 405) inserted “UNDER THIS ACT” after “EXCEPTION FOR ONGOING PRESIDENTIAL ACTION”.

lar concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this Act in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and³³

(C) the President reports to Congress the information described in section 404(a)(1), (2), (3), and (4) regarding the actions in effect with respect to the country.³³

(5)³³ EXCEPTION FOR ONGOING, MULTIPLE, BROADBASED SANCTIONS IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 404(a)(1), (2), (3), and (4), and, as applicable, to section 408, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to section 409 of this Act.

(d) STATUTORY CONSTRUCTION.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304).

SEC. 403.³⁴ CONSULTATIONS.

(a) IN GENERAL.—As soon as practicable after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall carry out the consultations required in this section.

(b) DUTY TO CONSULT WITH FOREIGN GOVERNMENTS PRIOR TO TAKING PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 401; and

³³Sec. 2(2) of Public Law 106-55 (113 Stat. 405) inserted “and” at the end of subpara. (B); struck out “; and” at the end of subpara. (C) and inserted in lieu thereof a period; struck out subpara. designation (D), added “(5) EXCEPTION FOR ONGOING, MULTIPLE, BROADBASED SANCTIONS IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—At” to convert the text of former subpara. (D) into para. (5).

³⁴22 U.S.C. 6443.

(B) if agreed to, enter into such consultations, privately or publicly.

(2) **USE OF MULTILATERAL FORA.**—If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) **ELECTION OF NONDISCLOSURE OF NEGOTIATIONS TO PUBLIC.**—If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) **DUTY TO CONSULT WITH HUMANITARIAN ORGANIZATIONS.**—The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) **DUTY TO CONSULT WITH UNITED STATES INTERESTED PARTIES.**—The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

SEC. 404.³⁵ REPORT TO CONGRESS.

(a) **IN GENERAL.**—Subject to subsection (b), not later than 90 days after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall submit a report to Congress containing the following:

(1) **IDENTIFICATION OF PRESIDENTIAL ACTIONS.**—An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) **DESCRIPTION OF VIOLATIONS.**—A description of the violations giving rise to the Presidential action or actions to be taken.

(3) **PURPOSE OF PRESIDENTIAL ACTIONS.**—A description of the purpose of the Presidential action or actions.

(4) **EVALUATION.**—

³⁵ 22 U.S.C. 6444.

(A) DESCRIPTION.—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 403(c) and (d), and whoever else the President deems appropriate, of—

- (i) the impact upon the foreign government;
 - (ii) the impact upon the population of the country;
- and
- (iii) the impact upon the United States economy and other interested parties.

(B) AUTHORITY TO WITHHOLD DISCLOSURE.—The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) STATEMENT OF POLICY OPTIONS.—A statement that non-economic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 403.

(6) DESCRIPTION OF MULTILATERAL NEGOTIATIONS.—A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) DELAY IN TRANSMITTAL OF REPORT.—If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 401(b)(3) or 402(c)(3), then the President shall not be required to submit the report to Congress until the expiration of that period of time.

SEC. 405.³⁶ DESCRIPTION OF PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.
- (10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of

³⁶22 U.S.C. 6445.

credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.

(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

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

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) **COMMENSURATE ACTION.**—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) **BINDING AGREEMENTS.**—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agree-

ment for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

SEC. 406.³⁷ EFFECTS ON EXISTING CONTRACTS.

The President shall not be required to apply or maintain any Presidential action under this subtitle—

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

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

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

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

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

SEC. 407.³⁸ PRESIDENTIAL WAIVER.

(a) IN GENERAL.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

³⁷ 22 U.S.C. 6446.

³⁸ 22 U.S.C. 6447.

SEC. 408.³⁹ PUBLICATION IN FEDERAL REGISTER.

(a) IN GENERAL.—Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) DETERMINATIONS OF GOVERNMENTS, OFFICIALS, AND ENTITIES OF PARTICULAR CONCERN.—Any designation of a country of particular concern for religious freedom under section 402(b)(1), together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 402(b)(2).

(2) PRESIDENTIAL ACTIONS.—A description of any Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) DELAYS IN TRANSMITTAL OF PRESIDENTIAL ACTION REPORTS.—Any delay in transmittal of a Presidential action report, as described in section 404(b).

(4) WAIVERS.—Any waiver under section 407.

(b) LIMITED DISCLOSURE OF INFORMATION.—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2414(c)), if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this Act.

SEC. 409.⁴⁰ TERMINATION OF PRESIDENTIAL ACTIONS.

Any Presidential action taken under this Act with respect to a foreign country shall terminate on the earlier of the following dates:

(1) TERMINATION DATE.—Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) FOREIGN GOVERNMENT ACTIONS.—Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

SEC. 410.⁴¹ PRECLUSION OF JUDICIAL REVIEW.

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

Subtitle II—Strengthening Existing Law**SEC. 421. UNITED STATES ASSISTANCE.**

(a) IMPLEMENTATION OF PROHIBITION ON ECONOMIC ASSISTANCE.—Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(c)) is amended—* * *⁴²

³⁹ 22 U.S.C. 6448.

⁴⁰ 22 U.S.C. 6449.

⁴¹ 22 U.S.C. 6450.

⁴² For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

(b) IMPLEMENTATION OF PROHIBITION ON MILITARY ASSISTANCE.—Section 502B(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)) is amended by adding at the end the following new paragraph: * * *⁴²

SEC. 422. MULTILATERAL ASSISTANCE.

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection: * * *⁴³

SEC. 423.⁴⁴ EXPORTS OF CERTAIN ITEMS USED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) MANDATORY LICENSING.—Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 6(n) of the Export Administration Act of 1979 (22 U.S.C. App. 2405(n)), or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) LICENSING BAN.—The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.

TITLE V—PROMOTION OF RELIGIOUS FREEDOM

SEC. 501.⁴⁵ ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

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

(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(b) ALLOCATION OF FUNDS FOR INCREASED PROMOTION OF RELIGIOUS FREEDOMS.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended by inserting “, including the right to free religious belief and practice” after “adherence to civil and political rights”.

⁴³ For amended text, see *Legislation on Foreign Relations Through 2000*, vol. III.

⁴⁴ 22 U.S.C. 6461.

⁴⁵ 22 U.S.C. 2151n note.

SEC. 502. INTERNATIONAL BROADCASTING.

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—* * *

SEC. 503. INTERNATIONAL EXCHANGES.

Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)) is amended—* * *

SEC. 504. FOREIGN SERVICE AWARDS.

(a) **PERFORMANCE PAY.**—Section 405(d) of the Foreign Service Act of 1980 (22 U.S.C. 3965(d)) is amended by inserting after the first sentence the following: “Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

(b) **FOREIGN SERVICE AWARDS.**—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by adding at the end the following new sentence: “Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

SEC. 601.⁴⁶ USE OF ANNUAL REPORT.

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien’s claim.

SEC. 602. REFORM OF REFUGEE POLICY.

(a) **TRAINING.**—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection: * * *

(b) **TRAINING FOR FOREIGN SERVICE OFFICERS.**—Section 708 of the Foreign Service Act of 1980, as added by section 104 of this Act, is further amended—* * *

(c) **GUIDELINES FOR REFUGEE-PROCESSING POSTS.**—

(1) **GUIDELINES FOR ADDRESSING HOSTILE BIASES.**—The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service and of the Department of State⁴⁷ that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to pro-

⁴⁶22 U.S.C. 6471.

⁴⁷Sec. 253(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted “and of the Department of State” after “Service”.

vide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) **GUIDELINES FOR REFUGEE-PROCESSING POSTS IN ESTABLISHING AGREEMENTS WITH UNITED STATES GOVERNMENT-DESIGNATED REFUGEE PROCESSING ENTITIES.**—The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(3)⁴⁸ Not later than 120 days after the date of the enactment of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, the Secretary of State (after consultation with the Attorney General) shall issue guidelines to ensure that persons with potential biases against any refugee applicant, including persons employed by, or otherwise subject to influence by, governments known to be involved in persecution on account of religion, race, nationality, membership in a particular social group, or political opinion, shall not in any way be used in processing determinations of refugee status, including interpretation of conversations or examination of documents presented by such applicants.

(d) **ANNUAL CONSULTATION.**—The President shall include in each annual report on proposed refugee admissions under section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)).

SEC. 603.⁴⁹ REFORM OF ASYLUM POLICY.

(a) **GUIDELINES.**—The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

⁴⁸ Sec. 253(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added para. (3).

⁴⁹ 22 U.S.C. 6473.

(b) **TRAINING FOR ASYLUM AND IMMIGRATION OFFICERS.**—The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)), on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) **TRAINING FOR IMMIGRATION JUDGES.**—The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and non-governmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) **INELIGIBILITY FOR VISAS OR ADMISSION.**—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:
* * *

(b)⁵⁰ **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of the enactment of this Act.

SEC. 605.⁵¹ STUDIES ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.

(a) **STUDIES.**—

(1) **COMMISSION REQUEST FOR PARTICIPATION BY EXPERTS ON REFUGEE AND ASYLUM ISSUES.**—If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) **DUTIES OF COMPTROLLER GENERAL.**—The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

⁵⁰ 8 U.S.C. 1182 note.

⁵¹ 22 U.S.C. 6474.

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) REPORTS.—

(1) PARTICIPATION BY EXPERTS.—In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General's report under subsection (a)(2) or independently.

(2) DUTIES OF COMPTROLLER GENERAL.—Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(c) ACCESS TO PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701.⁵² BUSINESS CODES OF CONDUCT.

(a) CONGRESSIONAL FINDING.—Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that transnational corporations operating overseas, particularly

⁵² 22 U.S.C. 6481.

those corporations operating in countries the governments of which have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

7. Foreign Service Buildings

a. The Foreign Service Buildings Act, 1926, as amended

Public Law 69-186 [H.R. 10200], 44 Stat. 403, approved May 7, 1926, as amended by Public Law 70-586 [H.R. 10166], 45 Stat. 971, approved May 29, 1928; Public Law 79-33 [H.R. 685], 59 Stat. 53, approved April 19, 1945; Public Law 82-399 [H.R. 6661], 66 Stat. 140, approved June 19, 1952; Public Law 86-723 [S. 2633], 74 Stat. 847, approved September 8, 1960; Public Law 88-94 [H.R. 5207], 77 Stat. 121, approved August 12, 1963; Public Law 88-414 [H.R. 11754], 78 Stat. 387, approved August 10, 1964; Public Law 89-22 [H.R. 7064], 79 Stat. 112, approved May 29, 1965; Public Law 89-636 [H.R. 14019], 80 Stat. 881, approved October 10, 1966; Public Law 90-442 [H.R. 18065], 82 Stat. 461, approved July 30, 1968; Public Law 91-586 [Foreign Service Buildings Appropriations, H.R. 18012], 84 Stat. 1578, approved December 24, 1970; Public Law 93-47 [Foreign Service Buildings Appropriations, H.R. 5610], 87 Stat. 98, approved June 22, 1973; Public Law 93-263 [H.R. 12463], 88 Stat. 83, approved April 12, 1974; Public Law 94-141 [Foreign Relations Authorization Act, Fiscal Year 1976; S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 94-350 [foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-45 [Department of State Appropriations Authorization, Fiscal Year 1977; H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 845, approved August 17, 1977; by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 2151], 100 Stat. 863, approved August 27, 1986; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.¹

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*² (a)³ the Secretary of State is empowered to acquire by purchase or construction in the manner hereinafter provided, within the limits of appropriations made to carry out⁴ this Act, or by exchange, in whole or in part, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the Secretary of State, sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings

¹All references in this Act to the Foreign Service Buildings Commission were deleted by sec. 2 of Public Law 88-94 (77 Stat. 121).

²22 U.S.C. 292. Sec. 1 was amended and restated by Public Law 70-586 (45 Stat. 971), and further amended by Public Law 88-94 (77 Stat. 122) and Public Law 89-636 (80 Stat. 881).

³Sec. 2 of Public Law 89-636 (80 Stat. 881), inserted "(a)" and added subsec. (b).

⁴The words "to carry out" were substituted in lieu of "pursuant to" and "under authority of", respectively, by sec. 106(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845).

for the use of the diplomatic and consular establishments of the United States, or for the purpose of consolidating within one or more buildings, the embassies, legation, consulates, and other agencies of the United States Government there maintained.⁵ The space in such buildings shall be allotted by the Secretary of State⁶ among the several agencies of the United States Government.

(b)³ Payments made for rent or otherwise by the United States from funds other than appropriations made to carry out⁴ this Act may be credited toward the acquisition of property under this Act without regard to limitations of amounts imposed by this Act.

SEC. 2.⁷ * * * [Repealed—1963]

SEC. 3.⁸ Buildings and grounds acquired under this Act or heretofore acquired or authorized for the use of the diplomatic and consular establishments in foreign countries may⁹ be used, in the case of buildings and grounds for the diplomatic establishment, as Government offices or residences or as such offices and residences; or, in the case of other buildings and grounds, as such offices or such offices and residences. The contracts for purchases of buildings, for leases, and for¹⁰ all work of construction, alteration, and repair under this Act are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary⁹ without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States and without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).¹¹

SEC. 4.¹² (a) For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated an amount not exceeding \$10,000,000, and the appropriations made pursuant to this authorization shall constitute a fund to be known as the Foreign Service Buildings Fund, to remain available until expended. Under this authorization not more than \$2,000,000 shall be appropriated for any one year, but within the total authorization provided in this Act the Secretary of State¹³ may enter into contracts for the acquisition of the buildings and grounds authorized

⁵Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended (Public Law 103-236; 108 Stat. 396; 22 U.S.C. 292 note), required the following:

“SEC. 134. PROPERTY AGREEMENTS.

“Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.”

Sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 965), directed the Secretary of State to implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under this section.

⁶Sec. 2(b)(4) of Public Law 89-94 (77 Stat. 121), added “The space in such buildings shall be allotted by the Secretary of State”.

⁷Sec. 2(c) of Public Law 88-94 (77 Stat. 122), approved August 12, 1963, repealed sec. 2 of the 1926 Act, establishing the Foreign Service Buildings Commission; sec. 2(g) of the 1963 Act repealed all references to the Commission in all of the laws of the United States; and sec. 2(f) of the 1963 Act repealed sec. 1(e) of Reorganization Plan No. 2 of May 9, 1939 (53 Stat. 1432, 66 Stat. 140).

⁸22 U.S.C. 294.

⁹Sec. 2(c)(1) of Public Law 88-94 (70 Stat. 122) deleted the phrases “subject to the direction of the Commission” and “in the judgment of the Commission”.

¹⁰Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 656), inserted “purchases of buildings, for leases, and for”.

¹¹Sec. 2(c)(2) of Public Law 88-94 (70 Stat. 122), added “and without regard to * * * (31 U.S.C. 529)”.

¹²22 U.S.C. 295.

¹³Sec. 2(d) of Public Law 88-94 (70 Stat. 122), struck out the phrase “subject to the direction of the commission”.

by this Act. In the case of the buildings and grounds authorized by this Act, after the initial alterations, repairs, and furnishings have been completed, subsequent expenditures for such purposes may be made out of the appropriations authorized by this Act in amounts authorized by the Congress each year.¹⁴

(b)¹⁵ For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed \$90,000,000, which shall be available exclusively for payments representing the value, in whole or in part, of property or credits in accordance with the provisions of the Act of July 25, 1946 (60 Stat. 663). Sums appropriated pursuant to this authorization shall remain available until expended.

(c)¹⁶ For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed \$10,000,000, which shall remain available until expended.

(d) In addition to amounts authorized before the date of enactment of this section, there is hereby authorized to be appropriated to the Secretary of State—

(1)¹⁷ for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed \$7,140,000 of which not to exceed \$3,270,000 may be appropriated for the fiscal year 1964;

(B) for use in the American Republics, not to exceed \$5,360,000, of which not to exceed \$4,030,000 may be appropriated for the fiscal year 1964;

(C) for use in Europe, not to exceed \$6,839,000, of which not to exceed \$1,820,000 may be appropriated for the fiscal year 1964;

(D) for use in the Far East, not to exceed \$2,350,000, of which not to exceed \$2,220,000 may be appropriated for the fiscal year 1964;

(E) for use in the Near East, not to exceed \$2,710,000, of which not to exceed \$2,100,000 may be appropriated for the fiscal year 1964;

(F) for facilities for the United States Information Agency,¹⁸ not to exceed \$1,125,000, of which not to exceed \$720,000 may be appropriated for the fiscal year 1964; and

¹⁴ Sec. 2 of Public Law 82-399 (66 Stat. 140), added the phrase "in amounts authorized by Congress each fiscal year".

¹⁵ Subsec. (b) was added by sec. 2 of Public Law 82-399 (66 Stat. 140).

¹⁶ Subsec. (c) was added by sec. 49 of Public Law 86-723 (74 Stat. 847).

¹⁷ Par. (1) was added by sec. 1 of Public Law 88-94 (77 Stat. 121).

¹⁸ Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions in subsecs. (d)(1)(F), (f)(1)(F), (g)(1)(F), (h)(1)(C), and (h)(1)(F), vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. Sec. 303(b) of Public Law 97-241 (96 Stat. 291) substituted "United States Information Agency" for "International Communications Agency" in these subsecs. Subsec. (h)(1)(F) was repealed by Public Law 95-45.

- (G) for facilities for agricultural and defense attaché housing, not to exceed \$800,000, of which not to exceed \$400,000 may be appropriated for the fiscal year 1964;
- (2)¹⁹ for use to carry out the other purposes of this Act, not to exceed \$11,500,000 for the fiscal year 1964, \$12,000,000 for the fiscal year 1965, \$12,200,000 for the fiscal year 1966, \$12,400,000 for the fiscal year 1967.
- (e)²⁰ For the purpose of carrying into effect the provisions of this Act in South Vietnam, there is hereby authorized to be appropriated, in addition to amounts previously authorized prior to the enactment of this amendment, \$2,600,000, to remain available until expended.
- (f)²¹ In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—
- (1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—
- (A) for use in Africa, not to exceed \$5,485,000, of which not to exceed \$1,885,000 may be appropriated for the fiscal year 1967;
- (B) for use in the American Republics, not to exceed \$7,920,000, of which not to exceed \$3,585,000 may be appropriated for the fiscal year 1967;
- (C) for use in Europe, not to exceed \$3,310,000, of which not to exceed \$785,000 may be appropriated for the fiscal year 1967;
- (D) for use in the Far East, not to exceed \$3,150,000, of which not to exceed \$2,890,000 may be appropriated for the fiscal year 1967;
- (E) for use in the Near East, not to exceed \$6,930,000, of which not to exceed \$1,890,000 may be appropriated for the fiscal year 1967;
- (F) for facilities for the United States Information Agency,¹⁸ not to exceed \$615,000, of which not to exceed \$430,000 may be appropriated for the fiscal year 1967;
- (G) for facilities for agricultural and defense attaché housing, not to exceed \$800,000, of which not to exceed \$400,000 may be appropriated for the fiscal year 1967;
- (2) for use to carry out the other purposes of this Act, not to exceed \$12,600,000 for the fiscal year 1968, not to exceed \$12,750,000 for the fiscal year 1969, not to exceed \$13,500,000 for the fiscal year 1970, not to exceed \$14,300,000 for the fiscal year 1971, not to exceed \$15,000,000 for the fiscal year 1972, and not to exceed \$15,900,000 for the fiscal year 1973.

¹⁹ Paragraph (2) was added by sec. 1 of Public Law 88-94 (77 Stat. 121); further amended and restated by Public Law 88-414 (78 Stat. 387); further amended by sec. 1(1) of Public Law 89-636 (80 Stat. 881).

²⁰ Subsec. (e) was added by Public Law 89-22 (79 Stat. 112), and amended by sec. 1(2) of Public Law 89-636 (80 Stat. 881), which struck out "\$1,000,000" and inserted "\$2,600,000".

²¹ Subsec. (f) was added by sec. 1(3) of Public Law 89-636 (80 Stat. 881). Sums for fiscal years 1970 and 1971 were added by Public Law 90-442 (82 Stat. 461); and for fiscal years 1972 and 1973 by Public Law 91-586 (84 Stat. 1578).

(g)²² In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed \$850,000,²³ of which not to exceed \$631,000 may be appropriated for the fiscal year 1974;

(B) for use in the American Republics, not to exceed \$240,000,²⁴ of which not to exceed \$240,000 may be appropriated for the fiscal year 1974;

(C) for use in Europe, not to exceed \$682,000,²⁵ of which not to exceed \$985,000 may be appropriated for the fiscal year 1974;

(D) for use in Africa, not to exceed \$1,243,000,²⁶ of which not to exceed \$204,000 may be appropriated for the fiscal year 1974;

(E) for use in the Near East and South Asia, not to exceed \$10,433,000,²⁷ of which not to exceed \$2,287,000 may be appropriated for the fiscal year 1974;

(F) for facilities for the United States Information Agency,¹⁸ not to exceed \$45,000 for use beginning in the fiscal year 1975;

(G) for facilities for agricultural and defense attaché housing, not to exceed \$318,000 for use beginning in the fiscal year 1974; and

(2) for use to carry out other purposes of this Act for fiscal years 1974 and 1975, \$48,532,000,²⁸ of which not to exceed \$23,066,000²⁸ may be appropriated for fiscal year 1974.

(h)²⁹ In addition to amounts authorized before the date of enactment of this subsection, there is authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A)³⁰ for use in Europe, not to exceed \$225,000 for fiscal year 1977;

(B)³⁰ for use in the Near East and South Asia, not to exceed \$12,885,000, of which not to exceed \$3,985,000 may be appropriated for fiscal year 1976;

²²Subsec. (g) was added by Public Law 93-47, renumbering the old sec. (g) as (h) and inserting this new sec. (g).

²³Sec. 171(a)(1) of Public Law 94-141 struck out "\$2,190,000" and inserted "\$850,000".

²⁴Sec. 171(a)(2) of Public Law 94-141 struck out "\$375,000" and inserted "\$240,000".

²⁵Sec. 171(a)(3) of Public Law 94-141 struck out "\$4,780,000" and inserted "\$682,000".

²⁶Sec. 171(a)(4) of Public Law 94-141 struck out "\$2,190,000" and inserted "\$1,243,000".

²⁷Sec. 171(a)(5) of Public Law 94-141 struck out "\$3,518,000" and inserted "\$10,433,000".

²⁸Sec. 1(4) of Public Law 92-263 (88 Stat. 83) struck out "\$45,800,000" and "\$21,700,000" and inserted "\$48,532,000" and "\$23,066,000," respectively.

²⁹Sec. 171(b) of Public Law 94-141 redesignated subsec. (h) as subsec. (i) and inserted this new subsec. (h).

³⁰Sec. 3 of Public Law 95-45 (91 Stat. 221) struck out subpars. (A) through (G) and inserted the new subpars. (A) through (E).

(C)³⁰ for facilities for the United States Information Agency, not to exceed \$3,400,000, of which not to exceed \$2,800,000 may be appropriated for fiscal year 1976;

(D)³⁰ for facilities for agricultural and defense attaché housing, not to exceed \$150,000 for fiscal year 1977; and

(E)³⁰ for facilities for the United States Agency for International Development, not to exceed \$17,200,000 for fiscal year 1977; and

(2) for use to carry out the other purposes of this Act for fiscal years 1976 and 1977, \$73,058,000,³¹ of which not to exceed \$32,840,000 may be appropriated for fiscal year 1976.

(i)³² (1) Sums appropriated under authority of this Act shall remain available until expended. To the maximum extent feasible, expenditures under this Act shall be made out of foreign currencies owned by or owed to the United States.

(2)³³ Not to exceed 10 per centum of the funds authorized by any subparagraph under paragraph (1) of subsections (d), (f), (g), and (h) of this section may be used for any of the purposes for which funds are authorized under any other subparagraph of any of such paragraph (1).

(3)³⁴ There are hereby authorized to be appropriated to the Secretary of State such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(j)³⁵ * * * [Repealed—1994]

SEC. 5.³⁶ For the purposes of this Act the Secretary of State is authorized to supervise, preserve, maintain, operate, and, when deemed necessary, to insure the Foreign Service properties in foreign countries and the other properties acquired in accordance with the provisions of this Act; to rent and insure objects of art; to collect information and formulate plans; and, without regard to civil service and classification laws, to obtain architectural and other expert technical services as may be necessary and pay therefor the scale of professional fees as established by local authority, law or custom, and to make expenditures without regard to that part of 52 Statutes 441 (22 U.S.C. 295a) requiring purchase of articles manufactured in the United States.

SEC. 6.³⁷ The authority granted to acquire sites and buildings by purchase or otherwise shall include authority to acquire leaseholds.³⁸

³¹Sec. 109(1) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), substituted "\$73,058,000" in lieu of "\$71,600,000".

³²Subsec. (i) was added by sec. 1(3) of Public Law 89-636 (80 Stat. 881) and redesignated subsec. (i) by sec. 171(b)(1) of Public Law 94-141.

³³Par. (2) was added by Public Law 93-47 and revised by sec. 171(b)(2) of Public Law 94-141.

³⁴Paragraph (3) was added by Public Law 93-47 of June 22, 1973.

³⁵Subsec. (j), added by sec. 109(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), authorized \$30 million in appropriations for Foreign Service buildings in the Union of Soviet Socialist Republics, was repealed by sec. 503 of Public Law 103-199 (107 Stat. 2327).

³⁶22 U.S.C. 296. Sec. 5 was amended and restated by sec. 3 of Public Law 82-399 (66 Stat. 140).

³⁷22 U.S.C. 297. Sec. 6 was amended and restated by sec. 4 of Public Law 82-399 (66 Stat. 140).

³⁸Sec. 106(b) of the Foreign Relations Authorization Act, Fiscal Year 1978, struck out the words "of not less than ten years" which formerly appeared at this point.

SEC. 7.³⁹ The Act entitled “An Act providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad,” approved February 17, 1911, is repealed, but such repeal shall not invalidate appropriations already made under the authority of such Act.

SEC. 8.⁴⁰ This Act may be cited as the “Foreign Service Buildings Act, 1926”.

SEC. 9.⁴¹ (a) The Secretary of State is authorized—

(1) to sell, exchange, lease, or license any property or property interest acquired under this Act, or under other authority, for use of diplomatic and consular establishments in foreign countries or in the United States pursuant to section 204(b)(5) of the State Department Basic Authorities Act of 1956,⁴²

(2) to receive payment in whatever form, or in kind, he determines to be in the interest of the United States for damage to or destruction of property acquired for use of diplomatic and consular establishments abroad, and the contents of such buildings, and

(3) to accept on behalf of the United States gifts of property or services of any kind made by will or otherwise for the purposes of this Act.

(b) Proceeds derived from dispositions, payments, or gifts under subsection (a) shall, notwithstanding the provisions of any other law, be applied toward acquisition, construction, or other purposes authorized by this Act or held in the Foreign Service Buildings Fund, as in the judgment of the Secretary may best serve the Government’s interest: *Provided*, That the Secretary shall report all such transactions annually to the Congress with the budget estimates of the Department of State.

(c)⁴³ Notwithstanding subsection (b), proceeds from the disposition of furniture, furnishings, and equipment from diplomatic and consular establishments in foreign countries shall be deposited into the Foreign Service Building Fund to be available for obligation or expenditure as directed by the Secretary.

SEC. 10.⁴⁴ (a) LEASES.—Notwithstanding the provisions of this or any other Act no lease or other rental arrangement for a period of less than ten years, and requiring an annual payment in excess of \$50,000,⁴⁵ shall be entered into by the Secretary of State for the purpose of renting or leasing offices, buildings, grounds, or living quarters for the use of the Foreign Service abroad, unless such lease or other rental arrangement is approved by the Secretary. The Secretary may delegate his authority under this section only

³⁹ 22 U.S.C. 298.

⁴⁰ 22 U.S.C. 299.

⁴¹ 22 U.S.C. 300. Sec. 9 was added by Public Law 79-33 (59 Stat. 53); further amended by sec. 2(e) of Public Law 88-94 (77 Stat. 122); further amended and restated by sec. 3 of Public Law 82-399 (80 Stat. 882).

⁴² Sec. 116(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), added this reference to the State Department Basic Authorities Act of 1956.

⁴³ Subsec. (c) was added by sec. 401 (h)(2) of Public Law 99-399 (100 Stat. 863).

⁴⁴ 22 U.S.C. 301. Sec. 10 was added by sec. 4 of Public Law 89-636 (80 Stat. 882). Subsec. (a) designation and its subsection heading, and subsec. (b) were added by Sec. 115(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655).

⁴⁵ Sec. 115(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), increased this lease authority from \$25,000 to \$50,000.

to the Deputy Under Secretary of State for Administration or to the Director of the Office of Foreign Buildings. The Secretary shall keep the Congress fully and currently informed with respect to leases or other rental arrangements approved under this section.

(b)^{44, 46} ADVANCE PAYMENTS FOR LONG-TERM LEASES AND LEASE PURCHASE.—The Secretary may, subject to the availability of appropriations, make advance payments for long-term leases and lease-purchase agreements, if the Secretary or his designee determines, in each case, that such payments are in the interest of the United States Government in carrying out the purposes of this Act.

SEC. 11.⁴⁷ (a) Eligibility for award of contracts under this Act or of any other contract by the Secretary of State, including lease-back or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed \$5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary, to carry out the construction project.

(b)(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) shall be reduced by ten percent.

(3) A determination of adequacy of competition for purposes of subsection (a) shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) and this subsection.

(4) Bidder qualification under subsection (a) shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) shall require evidence of (A) performance of similar construction work in the United States, and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

⁴⁶ Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

⁴⁷ 22 U.S.C. 302. Sec. 136 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1029), added sec. 11.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

(c) Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority by bidders qualifying under subsection (a)(1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) This section shall cease to be effective when the Secretary of State determines that there are internationally-agreed-upon rules in effect on bidding for construction contracts.

SEC. 12.⁴⁸ Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this Act and that have been identified for sale.

⁴⁸ 22 U.S.C. 303. Added by sec. 2215 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-814).

b. The Act of May 25, 1938

Public Law 75-543 [H.R. 5633], 52 Stat. 441, 22 U.S.C. 295a, approved May 25, 1938

AN ACT To provide additional funds for buildings for the use of the diplomatic and consular establishments of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act, 1926, as amended, there is authorized to be appropriated, in addition to the amount authorized by such Act, an amount not to exceed \$5,000,000, of which not more than \$1,000,000 shall be appropriated for any one year. Sums appropriated pursuant to this Act shall be available for the purposes and be subject to the conditions and limitations of such Act, as amended: *Provided,* That in the expenditure of appropriations for the construction of diplomatic and consular establishments, the Secretary of State shall, unless in his discretion the interests of the Government will not permit, purchase or contract for only articles of manufacture of the United States, notwithstanding that such articles, when delivered abroad, may cost more if such excess of cost be not unreasonable.

c. The Act of July 25, 1946

Public Law 79-547 [H.R. 6627], 60 Stat. 663, 22 U.S.C. 295b, approved July 25, 1946

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act of May 7, 1926, as amended (22 U.S.C. 291-297), there is authorized to be appropriated in addition to the amount authorized by such Act, and the Act of May 25, 1938, an amount not to exceed \$125,000,000, of which \$110,000,000 shall be available exclusively for payments representing the value, in whole or in part, of property or credits of whatever nature acquired through lend-lease settlements, the disposal of surplus property abroad, or otherwise, and held abroad by the Government or owing the Government by any foreign government or by any person or organization residing or situated abroad, which property or credits may be used by the Department of State for sites, buildings, equipment, construction, and leaseholds; such payments to be made to the agency of the United States administering the property or credits and be treated by such agency as though made by the foreign government, person, or organization concerned. Sums appropriated pursuant to this Act shall be available for the purposes and subject to the conditions and limitations of the above Acts, except that there shall be no limitation on the amount to be appropriated in any one year and that expenditures for furnishings shall not be subject to the provisions of section 3709 of the Revised Statutes.

d. Jerusalem Embassy Act of 1995

Public Law 104-45 [S. 1322], 109 Stat. 298, enacted without Presidential signature on November 8, 1995

AN ACT To provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Jerusalem Embassy Act of 1995”.

SEC. 2. FINDINGS.

The Congress makes the following findings:

- (1) Each sovereign nation, under international law and custom, may designate its own capital.
- (2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.
- (3) The city of Jerusalem is the seat of Israel’s President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.
- (4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.
- (5) From 1948–1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.
- (6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.
- (7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.
- (8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.
- (9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress “strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected”.
- (10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of “final status” issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging “planning to begin now” for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem “should take place no later than . . . 1999”.

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David’s entry.

SEC. 3. TIMETABLE.

(a) STATEMENT OF THE POLICY OF THE UNITED STATES.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) OPENING DETERMINATION.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for “Acquisition and Maintenance of Buildings Abroad” may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.

(a) FISCAL YEAR 1996.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State in fiscal year 1996, not less than \$25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) FISCAL YEAR 1997.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State in fiscal year 1997, not less than \$75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

SEC. 5. REPORT ON IMPLEMENTATION.

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State's plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

SEC. 6. SEMIANNUAL REPORTS.

At the time of the submission of the President's fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

SEC. 7. PRESIDENTIAL WAIVER.

(a) **WAIVER AUTHORITY.**—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) **APPLICABILITY OF WAIVER TO AVAILABILITY OF FUNDS.**—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

SEC. 8. DEFINITION.

As used in this Act, the term "United States Embassy" means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

8. International Center Act, as amended

Public Law 90-553 [H.R. 16175], 82 Stat. 958, approved October 8, 1968; as amended by Public Law 93-40 [International Center for Foreign Chanceries—Appropriations; S. 1235], 87 Stat. 74, approved June 12, 1973; Public Law 97-186 [S. 1611] 99 Stat. 101, approved May 25, 1982; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990

AN ACT To authorize the transfer, conveyance, lease, and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for the Organization of American States, as sites for governments of foreign countries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That: in order to facilitate the conduct of foreign relations by the Department of State in Washington, District of Columbia, through the creation of a more propitious atmosphere for the establishment of foreign government and international organization offices and other facilities, the Secretary of State is authorized to develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease; to foreign governments and international organizations property owned by the United States in the Northwest sections of the District of Columbia bounded by Connecticut Avenue, Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility, upon such terms and conditions as the Secretary may prescribe. Every lease, contract of sale, deed, and other document of transfers shall provide (a) that the foreign government shall devote the property transferred to use for legation purposes, or (b) that the international organization shall devote the property transferred to its official uses.

SEC. 2.¹ Upon the request of any foreign government or international organization and with funds provided by such government or organization in advance, the Secretary of State in conjunction with the Administrator of General Services, is authorized to design, construct, and equip a headquarters building or related facilities on property conveyed described in the first section of this Act.

SEC. 3. The Act of June 20, 1938 (D.C. Code, secs. 5-413 to 5-428), shall not apply to buildings constructed on property transferred or conveyed pursuant to this Act including section 3 of this Act as in effect January 1, 1980. Plans showing the location, height, bulk, number of stories, and size of, and the provisions for

¹Sec. 124(1) of Public Law 99-93 (99 Stat. 405), amended sec. 2 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of State, in conjunction with the Administrator of General Services,"; and by striking out "conveyed pursuant to" and inserting in lieu thereof "described in".

open space and offstreet parking in and around, such buildings shall be approved by the National Capital Planning Commission, and plans showing the height and appearance, color, and texture of the materials of exterior construction of such buildings shall be approved by the Commission of Fine Arts prior to the construction thereof.

SEC. 4.² (a) The demolition or removal of existing structures, site preparation, and the construction, reconstruction, relocation, and rebuilding of (1) public streets and sidewalks, (2) public sewers and their appurtenances, (3) water mains, fire hydrants, and other parts of the public water supply and distribution system, (4) the fire alarm system, (5) other utilities, (6) facilities for security maintenance, and (7) related improvements necessary to accomplish the purposes of this Act, which are within or contiguous to the area described in section 1 of this Act and which are occasioned in carrying out the provisions of this Act, shall be provided by the Secretary of State, in coordination with the Administrator of General Services and the government of the District of Columbia.

(b) The Secretary of State shall periodically advise the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives³ and the Committee on Foreign Relations of the Senate on construction of facilities for security or maintenance under this section.

(c)⁴ (1)(A) The Department of State is authorized to require the payment of a fee by other executive agencies of the United States for the lease or use of facilities located at the International Center which are used for the purposes of security and maintenance. Any payments received for lease or use of such facilities shall be credited to the account entitled "International Center, Washington, District of Columbia" and shall be available, without fiscal year limitation, to cover the operation and maintenance expenses of such facilities, including administration, maintenance, utilities, repairs, and alterations.

(B) The authority of subparagraph (A) shall be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

(2) For purposes of paragraph (1), the term "Executive agencies" is used within the meaning of section 105 of title 5, United States Code.

SEC. 5. There is hereby authorized to be appropriated, without fiscal year limitation, not to exceed \$2,200,000 to carry out the pur-

²Sec. 124(2) of Public Law 99-93 (99 Stat. 405), added the text of sec. 2(a)(6) and the text of sec. 2(b).

³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(9) of that Act provided that references to the Committee on Public Works and Transportation shall be treated as referring to the Committee on Transportation and Infrastructure.

⁴Sec. 120 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 26), added subsec. (c).

Under "Administration of Foreign Affairs; Diplomatic and Consular Programs", the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in Public Law 106-553; 114 Stat. 32762A-91) provided: "In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section;".

poses of section 5 of this Act: *Provided*, That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from⁵ proceeds of the sale, exchange, or lease of property to foreign governments and international organizations as provided for in this first section of this Act. All proceeds received from such sales, exchanges, or leases shall, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484) or any other law, be paid into a special account with the Treasurer of the United States, such account to be administered by the Secretary of State for the purposes set out in section 5 of this Act. All sums remaining in such special account after completion of the projects authorized in section 5 shall be covered into the Treasury as miscellaneous receipts.⁶ The Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes. Amounts in the reserve will be available only to the extent and in such amounts as provided in advance in appropriations Acts.

SEC. 6. This Act may be cited as the International Center Act.

⁵The text from the beginning of the section to the footnote was added by Public Law 93-40 (87 Stat. 74).

⁶The text from the footnote to the end of the Act was added by Public Law 97-186 (96 Stat. 101).

9. Foreign Gifts and Decorations

a. Foreign Gifts and Decorations Act of 1966, as amended

Public Law 89-673 [S. 2463], 80 Stat. 592, approved October 15, 1966; as amended by Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved September 11, 1967

AN ACT To grant the consent of the Congress to the acceptance of certain gifts and decorations from foreign governments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Foreign Gifts and Decorations Act of 1966”.

SEC. 2.¹ In this Act—

(1) The term “person” includes every person who occupies an office or a position in the Government of the United States, its territories and possessions, the Canal Zone government, and the government of the District of Columbia, or is a member of the Armed Forces of the United States, or a member of the family and household of any such person.

(2) The term “foreign government” includes every foreign government and every official, agent, or representative thereof.

(3) The term “gift” includes any present or thing, other than a decoration, tendered by or received from a foreign government.

(4) The term “decoration” includes any order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

SEC. 3.² * * * [Repealed—1967]

SEC. 4.² * * * [Repealed—1967]

SEC. 5.² * * * [Repealed—1967]

SEC. 6.³ Any gift or decoration on deposit with the Department of State on the date of enactment of this Act shall, when approved by the Secretary of State and the appropriate department, agency, office, or other entity, be released to the donee or his legal representative. Such donee may, if authorized, be entitled to wear any decoration so approved. A gift or decoration not approved for release, because of any special or unusual circumstances involved, shall be deemed a gift to the United States and shall be deposited by the donee in accordance with the rules and regulations issued pursuant to this Act.

SEC. 7.² * * * [Repealed—1967]

SEC. 8.² * * * [Repealed—1967]

¹ 22 U.S.C. 2621.

² Secs. 3, 4, 5, 7, and 8 were repealed by sec. 10(b) of Public Law 90-83 (81 Stat. 224). They were superseded by sec. 1(45)(c) of Public Law 90-83 (81 Stat. 200), as amended and restated by sec. 515 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105; 91 Stat. 862).

³ 22 U.S.C. 2625.

b. Senate Resolution 314, 90th Congress (Report No. 90-1427), approved July 19, 1968

RESOLUTION

Resolved, That the Committee on Rules and Administration is hereby authorized to grant approval, for the purposes of section 7342 of title 5, United States Code, and regulations prescribed thereunder, of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious service.

c. Receipt and Disposition of Foreign Gifts and Decorations

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 862, approved August 17, 1977¹

* * * * *

FOREIGN GIFTS AND DECORATIONS

SEC. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

“§ 7342. Receipt and disposition of foreign gifts and decorations

“(a) For the purpose of this section—

“(1) ‘employee’ means—

“(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

“(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

“(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

“(D) a member of a uniformed service;

“(E) the President and the Vice President;

“(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

“(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or de-

¹The previous comprehensive amendment to sec. 7342 of title 5, U.S.C., was contained in Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved Sept. 11, 1967. Sec. 7342 of title 5, U.S.C., was further amended by sec. 712 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 994). Sec. 712(d) of such Act further stated: “(d) In the event that the space and facilities available to the Secretary of the Senate for carrying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.”

pendent who is an employee under subparagraphs (A) through (F);

“(2) ‘foreign government’ means—

“(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

“(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

“(C) any agent or representative of any such unit or such organization, while acting as such;

“(3) ‘gift’ means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

“(4) ‘decoration’ means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

“(5) ‘minimal value’ means a retail value in the United States at the time of acceptance of \$100 or less, except that—

“(A) on January 1, 1981, and at 3 year intervals thereafter, ‘minimal value’ shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

“(B) regulations of an employing agency may define ‘minimal value’ for its employees to be less than the value established under this paragraph; and

“(6) ‘employing agency’ means—

“(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

“(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d) and (g)(2)(B) shall be carried out by the Secretary of the Senate;²

“(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

“(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

“(b) An employee may not—

“(1) request or otherwise encourage the tender of a gift or decoration; or

“(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

“(c)(1) The Congress consents to—

²The words to this point beginning with “except that” were added by sec. 712(a)(2) of Public Law 95-426 (92 Stat. 994).

“(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

“(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

“(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

“(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by employing agency.

“(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

“(A) deposit the gift for disposal with his or her employing agency; or

“(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).³

“(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

“(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in ac-

³The words to this point beginning with “(1) or provide” were added by sec. 712(b)(1) of Public Law 95-426 (92 Stat. 994).

cordance with subsection (e)(1), or for provide for its disposal in accordance with subsection (e)(2).³

“(e)(1)⁴ Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

“(2)⁴ Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

“(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

“(2) Such listings shall include for each tangible gift reported—

“(A) the name and position of the employee;

“(B) a brief description of the gift and the circumstances justifying acceptance;

“(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

“(D) the date of acceptance of the gift;

“(E) the estimated value in the United States of the gift at the time of acceptance; and

“(F) disposition or current location of the gift.

⁴Sec. 712(c) of Public Law 95-426 (92 Stat. 994) added the paragraph designation “(1)” and added a new par. (2).

“(3) Such listings shall include for each gift of travel or travel expenses—

“(A) the name and position of the employee;

“(B) a brief description of the gift and the circumstances justifying acceptance; and

“(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

“(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

“(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

“(2) Each employing agency shall—

“(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

“(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

“(C) take any other actions necessary to carry out the purpose of this section.

“(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.

“(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

“(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

“(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.”.

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the “Emergencies in the Diplomatic and Consular Service” account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

d. Gifts and Decorations Regulations

Regulations of the Secretary of State, Department Regulation 108.556, 22 CFR 3.1 through 3.12, April 28, 1967, 32 F.R. 6569; as revised by Dept. Reg. 108.798, December 8, 1980, 45 F.R. 80819

PART 3—GIFTS AND DECORATIONS FROM FOREIGN GOVERNMENTS

AUTHORITY: Sec. 515(a)(1), 91 Stat. 862, amending 5 U.S.C. 7342 (1976).

§ 3.1 Purpose.

These regulations provide basic standards for employees of the Department of State, the United States International Development Cooperation Agency (IDCA), the Agency for International Development (AID), and the United States Information Agency (USIA),¹ their spouses (unless separated) and their dependents to accept and retain gifts and decorations from foreign governments.

§ 3.2 Authority.

(a) Section 515(a)(1) of the Foreign Relations Authorization Act of 1978 (91 Stat. 862–866), approved August 17, 1977 (hereafter referred to as “the Act”) amended Section 7342 of Title 5, U.S. Code (1976), making substantial changes in the law relating to the acceptance and retention of gifts and decorations from foreign governments.

(b) 5 U.S.C. 7342(g) authorizes each employing agency to prescribe regulations as necessary to carry out the new law.

§ 3.3 Definitions.

When used in this part, the following terms have the meanings indicated:

(a) “Employee” means (1) an officer or employee of the Department, AID, IDCA, or USIA,¹ including an expert or consultant, however appointed, and (2) a spouse (unless separated) or a dependent of such a person, as defined in section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(b) “Foreign government” means: (1) any unit of foreign governmental authority, including any foreign national, State, local, or municipal government; (2) any international or multinational organization whose membership is composed of any unit of foreign government as described in subsection (b)(1) of this section; (3) any

¹“United States Information Agency” was substituted for “International Communication Agency” pursuant to sec. 303(b) of Public Law 97–241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: “Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).”.

agent or representative of any such unit or organization, while acting as such;

(c) “Gift” means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(d) “Decoration” means an order, device, medal, badge, insignia, emblem or award tendered by, or received from, a foreign government;

(e) “Minimal value” means retail value in the United States at the time of acceptance of \$100 or less, except that on January 1, 1981, and at 3-year intervals thereafter, “minimal value” is to be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

§ 3.4 Restriction on acceptance of gifts and decorations.

(a) An employee is prohibited from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government. An employee is also prohibited from accepting a gift or decoration from a foreign government, except in accordance with these regulations.

(b) An employee may accept and retain a gift of minimal value tendered and received as a souvenir or mark of courtesy, subject, however, to the following restrictions—

(1) Where more than one tangible item is included in a single presentation, the entire presentation shall be considered as one gift, and the aggregate value of all items taken together must not exceed “minimal value”.

(2) The donee is responsible for determining that a gift is of minimal value in the United States at the time of acceptance. However, should any dispute result from a difference of opinion concerning the value of a gift, the employing agency will secure the services of an outside appraiser to establish whether the gift is one of “minimal value”. If, after an appraisal has been made, it is established that the value of the gift in question is \$200 or more at retail in the United States, the donee will bear the costs of the appraisal. If, however, the appraised value is established to be less than \$200, the employing agency will bear the costs.

(c) An employee may accept a gift of more than minimal value when (1) such gift is in the nature of an educational scholarship or medical treatment, or (2) it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States.

(d) An employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency. Except where the employing agency has specific interests which may be favorably affected by employee travel wholly outside the United States, even

though it would not normally authorize its employees to engage in such travel, the standards normally applied to determine when proposed travel will be in the best interests of the employing agency and of the United States Government shall be applied in approving acceptance of travel or travel expenses offered by a foreign government.

(1) There are two circumstances under which employees may accept gifts of travel or expenses:

(i) When the employee is issued official travel orders placing him or her in the position of accepting travel or travel expenses offered by a foreign government which are directly related to the authorized purpose of the travel; or

(ii) When the employee's travel orders specifically anticipate the acceptance of additional travel and travel expenses incident to the authorized travel.

(2) When an employee is traveling under circumstances described in paragraph (d)(1)(i) of this section, that is, without specific instructions authorizing acceptance of additional travel expenses from a foreign government, the employee must file a report with the employing agency under the procedures prescribed in § 3.6.

(e) Since tangible gifts of more than minimal value may not lawfully become the personal property of the donee, all supervisory officials shall, in advising employees of their responsibilities under the regulations, impress upon them their obligation to decline acceptance of such gifts, whenever possible, at the time they are offered, or to return them if they have been sent or delivered without a prior offer. All practical measures, such as periodic briefings, shall be taken to minimize the number of gifts which employees must deposit and which thus become subject to disposal as provided by law and regulation. Employees should not accept gifts of more than minimal value on the assumption that refusal would be likely to "cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States". In many instances it should be possible, by explanation of the prohibition against an employee's retention of such gifts, to avoid consequences of acceptance, including possible return of the gift to the donor. Refusal of the gift at the inception should typically be regarded as in the interest both of the foreign government donor and the U.S. Government.

§ 3.5 Designation of officials and offices responsible for administration of foreign gifts and decorations.

(a) The Act effects a significant degree of decentralization of administration relative to the disposal of foreign gifts and decorations which become U.S. Government property. Each agency is now responsible for receiving from its employees deposits of foreign gifts of more than minimal value, as well as of foreign decorations not meeting the statutory criteria for retention by the recipient. The agency is also responsible for disposing of this property by return to the donor, for retaining it in the agency if official use of it is approved, for reporting to the General Services Administration within 30 calendar days after deposit items neither disposed of nor retained, and for assuming custody, proper care and handling of such property pending removal from that custody pursuant to disposal

arrangements by the General Services Administration. The Secretary of State, however, is made responsible for providing guidance to other executive agencies in the development of their own regulations to implement the Act, as well as for the annual publication of lists of all gifts of more than minimal value deposited by Federal employees during the preceding year. [See § 3.5(c).] Authority for the discharge of the Secretary's responsibilities is delegated by these regulations to the Chief of Protocol.

(b) The Office of the Chief of Protocol retains primary responsibility for administration of the Act within the Department of State. That Office will, however, serve as the depository only for those foreign gifts and decorations which are turned in by State Department employees. The Director of Personnel Services of the USIA¹ will have responsibility for administration of the Act within that agency and will serve as the depository of foreign gifts and decorations. Employees of the other foreign affairs agencies must deposit with their respective agencies any gifts or decorations deposit of which is required by law.

(c) Any questions concerning the implementation of these regulations or interpretation of the law should be directed to the following:

- (1) For the Department of State, to the Office of Protocol or to the Office of the Assistant Legal Adviser for Management, as appropriate;
- (2) For IDCA, to the Office of the General Counsel;
- (3) For AID, to the Assistant General Counsel for Employee and Public Affairs; and
- (4) For USIA,¹ to the General Counsel.

§ 3.6 Procedure to be followed by employees in depositing gifts of more than minimal value and reporting acceptance of travel or travel expenses.

(a) An employee who has accepted a tangible gift of more than minimal value shall, within 60 days after acceptance, relinquish it to the designated depository office for the employing agency for disposal or with the approval of that office, deposit it for official use at a designated location in the employing agency or at a specified Foreign Service post. The designated depository offices are:

- (1) For the Department of State, the Office of Protocol;
- (2) For IDCA, the General Services Division of the Office of Management Planning in AID;
- (3) For AID, the General Services Division of the Office of Management Planning; and
- (4) For USIA,¹ the Office of Personnel Services.

(b) At the time that an employee deposits gifts of more than minimal value for disposal or for official use pursuant to paragraph (a) of this section, or within 30 days after accepting a gift of travel or travel expenses as provided in § 3.4(d) (unless the gift of such travel or travel expenses has been accepted in accordance with specific instructions from the Department or agency), the employee shall file a statement with the designated depository office with the following information:

- (1) For each tangible gift reported:
 - (i) The name and position of the employee;

- (ii) A brief description of the gift and the circumstances justifying acceptance;
 - (iii) The identity of the foreign government and the name and position of the individual who presented the gift;
 - (iv) The date of acceptance of the gift;
 - (v) The donee's best estimate in specific dollar terms of the value of the gift in the United States at the time of acceptance; and
 - (vi) Disposition or current location of the gift. (For State Department employees, forms for this purpose are available in the Office of Protocol.)
- (2) For each gift of travel or travel expenses:
- (i) The name and position of the employee;
 - (ii) A brief description of the gift and the circumstances justifying acceptance; and
 - (iii) The identity of the foreign government and the name and position of the individual who presented the gift.
- (c) The information contained in the statements called for in paragraph b of this section is needed to comply with the statutory requirement that, not later than January 31 of each year, the Secretary of State publish in the Federal Register a comprehensive listing of all such statements filed by Federal employees concerning gifts of more than minimal value received by them during the preceding year.

§ 3.7 Decorations.

(a) Decorations tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance may be accepted, retained, and worn by an employee, subject to the approval of the employing agency. Without such approval, the decoration is deemed to have been accepted on behalf of the United States and, like tangible gifts of more than minimal value, must be deposited by the employee with the designated depository office for the employing agency within sixty days after acceptance, for retention for official use or for disposal in accordance with § 3.9.

(b) The decision as to whether a decoration has been awarded for outstanding or unusually meritorious performance will be made:

(1) For the Department of State, by the supervising Assistant Secretary of State or comparable official, except that, in the case of a decoration awarded to an Assistant Secretary or other officer of comparable or higher rank, the decision shall be made by the Office of Protocol;

(2) For IDCA, by the Assistant Director for Administration;

(3) For AID, by the Director of Personnel Management; and

(4) For USIA,¹ by the Supervising Associate Director, the General Counsel, or the Director of the Office of Congressional and Public Liaison (for domestic employees), and by the Director of Area Offices (for overseas employees).

(c) To justify an affirmative decision, a statement from the foreign government, preferably in the form of a citation which shows the specific basis for the tender of the award, should be supplied. An employee who has received or been tendered a decoration should forward to the designated depository office of the employing

agency a request for review of the case. This request should contain a statement of circumstances of the award and such documentation from the foreign government as has accompanied it. The depository office will obtain the decision of the cognizant office as to whether the award meets the statutory criteria and thus whether the decoration may be retained and worn. Pending receipt of that decision, the decoration should remain in the custody of the recipient.

§ 3.8 Approval of retention of gifts or decorations with employing agency for official use.

(a) At the request of an overseas post or an office within the employing agency, a gift or decoration deemed to have been accepted on behalf of the United States may be retained for official use. Such retention should be approved:

- (1) For the Department of State, by the Chief of Protocol;
- (2) For IDCA, by AID's Director of Management Operations;
- (3) For AID, by the Director of Management Operations; and
- (4) For USIA,¹ by the Associate Director for Management.

However, to qualify for such approval, the gift or decoration should be an item which can be used in the normal conduct of agency business, such as a rug or a tea service, or an art object meriting display, such as a painting or sculpture. Personal gift items, such as wristwatches, jewelry, or wearing apparel, should not be regarded as suitable for "official use". Only under unusual circumstances will retention of a decoration for official use be authorized. Every effort should be made to place each "official use" item in a location that will afford the largest number of employees, and, if feasible, members of the public, the maximum opportunity to receive the benefit of its display, provided the security of the location is adequate.

(b) Items approved for official use must be accounted for and safeguarded as Federal property at all times under standard Federal property management procedures. Within 30 days after the official use of a gift has been terminated, the gift or decoration shall be deposited with the designated depository office of the employing agency to be held pending completion of disposal arrangements by the General Services Administration.

§ 3.9 Disposal of gifts and decorations which become the property of the United States.

(a) Gifts and decorations which have been reported to an employing agency shall either be returned to the donor or kept in safe storage pending receipt of instructions from the General Services Administration for transfer, donation or other disposal under the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and the Federal Property Management Regulations (41 CFR Part 101–49). The employing agency shall examine each gift or decoration and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form 120, Report of Excess Personal Property and, as necessary, Stand-

ard Form 120A, Continuation Sheet, and citing Section 7342 of Title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal Property Resources Service, Seventh and D Streets, S.W., Washington, D.C. 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

§ 3.10 Enforcement.

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty of the retail value of a gift improperly solicited or received, plus \$5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in § 3.10(c)(1) as responsible for forwarding a violation report to the Attorney General shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel expenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence that the violation was willful on the part of the employee, the senior administrative official referred to in § 3.10(c)(1) shall institute appropriate disciplinary action of a lesser degree than that called for in § 3.10(c)(2) in order to deter future violations by the same or another employee.

§ 3.11 Responsibility of chief of mission to inform host government of restrictions on employee's receipt of gifts and decorations.

A special provision of the Act requires the President to direct every chief of a United States diplomatic mission to inform the host government that it is a general policy of the United States Government to prohibit its employees from receiving gifts of more than minimal value or decorations that have not been tendered "in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." Accordingly, all Chiefs of Mission shall in January of each year conduct a thorough and explicit program of orientation aimed at appropriate officials of the host government concerning the operation of the Act.

§ 3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.

The Act specifically excludes from its application grants and other forms of assistance "to which section 108A of the Mutual Education and Cultural Exchange Act of 1961 applies". See 22 U.S.C. 2558 (a) and (b) for the terms and conditions under which Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such employee in a cultural exchange.

10. Immigration, Migration and Refugee Assistance

a. Administration

(1) Migration and Refugee Assistance Act of 1962, as amended

Public Law 87-510 [H.R. 8291], 76 Stat. 121, approved June 28, 1962, as amended by Public Law 88-634 [H.R. 11812], 78 Stat. 1021, approved October 7, 1964; Public Law 94-141 [Foreign Relations Authorization Act, Fiscal Year 1976; S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat. 102, approved March 17, 1980; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 104-66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

AN ACT To enable the United States to participate in the assistance rendered to certain migrants and refugees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Migration and Refugee Assistance Act of 1962.”

SEC. 2.¹ (a) The President is hereby authorized to continue membership for the United States in the International Organization for Migration² in accordance with its constitution approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on May 20, 1987.³ For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Organization⁴ and all necessary salaries and expenses incidental to United States participation in the Organization.⁴

¹22 U.S.C. 2601. See also sec. 251 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), relating to U.S. policy regarding the involuntary return of refugees.

²Sec. 430(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), struck out “Intergovernmental Committee for European Migration” and inserted in lieu thereof “International Organization for Migration”.

³Sec. 430(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), inserted “, as amended in Geneva, Switzerland, on May 20, 1987”.

⁴Sec. 430(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), struck out “Committee” and inserted in lieu thereof “Organization”.

(b)⁵ There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.”

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the International Organization for Migration,² the International Committee of

⁵Sec. 312(b)(1) of Public Law 96-212 (94 Stat. 116) amended subsec. (b) by striking pars. (1) through (6) and adding new pars. (1) and (2).

Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act. For fiscal year 2001, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900), provided:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$700,000,000, which shall remain available until expended: *Provided*, That not more than \$14,500,000 shall be available for administrative expenses: *Provided further*, That funds appropriated under this heading to support activities and programs conducted by the United Nations High Commissioner for Refugees shall be made available after reporting at least 5 days in advance to the Committees on Appropriations: *Provided further*, That the reporting requirement contained in the previous proviso may be waived for any such obligation if failure to waive this requirement would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, a report to the Committees on Appropriations shall be provided as early as practicable, but in no event later than 5 days after such obligation: *Provided further*, That not less than \$60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.”

Sec. 103 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

“SEC. 103. MIGRATION AND REFUGEE ASSISTANCE.

“(a) MIGRATION AND REFUGEE ASSISTANCE.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for ‘Migration and Refugee Assistance’ for authorized activities, \$750,000,000 for the fiscal year 2000 and \$750,000,000 for the fiscal year 2001.

“(2) LIMITATIONS.—

“(A) TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

“(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1), \$60,000,000 for the fiscal year 2000 and \$60,000,000 for the fiscal year 2001 is authorized to be available only for assistance for refugees resettling in Israel from other countries.

“(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

“(D) ASSISTANCE FOR DISPLACED SIERRA LEONEANS.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) and resettlement of persons who have been severely mutilated as a result of civil conflict in Sierra Leone, including persons still within Sierra Leone.

“(E) INTERNATIONAL RAPE COUNSELING PROGRAM.—Of the amounts authorized to be appropriated in paragraph (1), \$1,000,000 for the fiscal year 2000 and \$1,000,000 for the fiscal year 2001 are authorized to be appropriated for a program of counseling for female victims of rape and gender violence in times of conflict and war.

the Red Cross, and to other relevant international organizations; and

(2)⁶ for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

(c)⁷ (1)⁸ Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms

⁶In Presidential Determination No. 99-6 of November 30, 1998, the President delegated the functions and authorities under sec. 2(b)(2) to the Secretary of State, who was authorized, in turn, to redelegate the functions and authorities consistent with applicable law.

⁷Subsec. (c) was amended and restated by sec. 501(a) of Public Law 94-141.

⁸Presidential Determination No. 97-14 of December 27, 1996 (62 F.R. 1379), provided the following pursuant to sec. 2(c):

“* * * it is in the national interest of the United States to draw down articles and services from the inventory and resources of the Department of Defense for the purpose of providing assistance to the victims of conflict and other persons at risk for Northern Iraq.

“Therefore, I hereby direct the drawdown of up to \$10,000,000 of such articles and services from the inventory and resources of the Department of Defense, for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962, as amended, section 2(c).”

Presidential Determination No. 98-24 of May 29, 1998 (63 F.R. 31879) provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$37,000,000 be made available from the United States Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees, victims of conflict, and other persons at risk in Africa and South-east Asia. These funds may be used, as appropriate, to provide contributions to international and nongovernmental agencies.”

Presidential Determination No. 98-34 of September 9, 1998 (63 F.R. 50453), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$20,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees, displaced persons, conflict victims, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.”

Presidential Determination No. 99-10 of January 25, 1999 (64 F.R. 5925), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$25 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of * * * refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.”

Presidential Determination No. 99-19 of March 31, 1999 (64 F.R. 17081), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$25,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of * * * refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.”

Presidential Determination No. 99-22 of April 29, 1999 (64 F.R. 24501), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$20 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs relating to the program under which the United States will provide refuge in the United States to refugees fleeing from the Kosovo crisis.

“These funds may be used to meet the urgent and unexpected needs of refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.”

Presidential Determination No. 99-23 of May 18, 1999 (64 F.R. 28085), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$15 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected humanitarian requirements associated with the Kosovo crisis.

“These funds may be used to meet the urgent and unexpected needs of refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to governmental, international and nongovernmental organizations. As necessary, funds will also support requirements associated with the U.S. program to provide refuge in the United States for up to 20,000 Kosovar refugees, and for administrative expenses of the Bureau of Population, Refugees, and Migration.”

and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed \$100,000,000.⁹ Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

(d) The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this Act.

(e) Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) of the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.¹⁰

(f)¹¹ The President may furnish assistance and make contributions under this Act notwithstanding any provision of law which restricts assistance to foreign countries.

SEC. 3.¹² (a) In carrying out the purpose of this Act, the President is authorized—

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other trans-

Presidential Determination No. 2000-07 of November 10, 1999 (64 F.R. 65653), provided the following pursuant to sec. 2(c)(1):

“* * * it is important to the national interest that up to \$40 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the unexpected urgent refugee and migration needs, including those of refugees, displaced persons, conflict victims, and other persons at risk, due to the Timor and North Caucasus crises. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations.”

⁹Sec. 430(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), inserted “\$100,000,000” in lieu of “\$50,000,000”.

Previously, sec. 312(b)(2) of Public Law 96-212 (94 Stat. 117) substituted \$50,000,000 in lieu of \$25,000,000.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 ((H.R. 5526, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900), provided the following:

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$15,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

¹⁰The final sentence in sec. 2(e) of this Act, repealed by the Foreign Assistance and Related Agencies Appropriation Act, 1965 (Public Law 88-634; 78 Stat. 1021), read: “Funds appropriated for the purposes of this section shall remain available until expended.”

¹¹Subsec. (f) was added by sec. 111 of Public Law 99-93 (99 Stat. 405).

¹²22 U.S.C. 2602.

actions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951 (65 Stat. 7), as amended)¹³ regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

SEC. 4.¹⁴ (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act. If the President shall so specify, any individual so designated under this subsection is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this subsection, except the function of exercising the waiver authority specified in section 3(b) of this Act.

(2) Section 104(b) of the Immigration and Nationality Act (8 U.S.C. 1104(b)), is amended by inserting after the first sentence the following: "He shall be appointed by the President by and with the advice and consent of the Senate."

(b)¹⁵ The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

SEC. 5.¹⁶ (a) Funds made available for the purposes of this Act shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service¹⁷ whose services are utilized primarily for the purpose of this Act, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the ob-

¹³ 50 U.S.C. App. 1211 note.

¹⁴ 22 U.S.C. 2603.

¹⁵ 22 U.S.C. 2604.

¹⁶ 22 U.S.C. 2605.

¹⁷ The reference to members of the Foreign Service was substituted in lieu of a reference to Foreign Service personnel by sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2162).

ligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act;

(2) employment or assignment of members of the Foreign Service serving under limited appointments¹⁸ for the duration of operations under this Act;

(3) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980,¹⁹ not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890-892), as amended;²⁰ and

(6)²¹ contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this Act.

(b) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this Act shall continue in full force and effect until modified, revoked, or superseded under the authority of this Act.

(c)²² Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this Act.

SEC. 6. Subsections (a), (c) and (d) of section 405 of the Mutual Security Act of 1954, as amended, subsection (c) of section 451 of the said Act, and the last sentence of section 2(a) of the Act of July 14, 1960 (74 Stat. 504), are hereby repealed.

SEC. 7. Until the enactment of legislation appropriating funds for activities under this Act, such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended.

SEC. 8.²³ AUDITS OF U.S. FUNDS RECEIVED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

¹⁸The reference to members of the Foreign Service serving under limited appointments was substituted in lieu of a reference to Foreign Service Reserve officers by sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2162).

¹⁹The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(a)(6) of Public Law 96-465 (94 Stat. 2162).

²⁰22 U.S.C. 2662 et seq.

²¹Paragraph 6 of sec. 5(a) was added by sec. 112 of Public Law 99-93 (99 Stat. 405). Authority provided by this amendment applied only to funds appropriated after August 16, 1985.

²²Sec. 164(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended (Public Law 103-236; 108 Stat. 411), added subsec. (c).

²³22 U.S.C. 2606. Sec. 8 was added by sec. 113 of Public Law 99-93 (99 Stat. 405).

(a)²⁴ PROGRAM AUDITS.—Funds may not be available to the United Nations High Commissioner for Refugees (UNHCR) under this or any other Act unless provision is made for—

(1) annual program audits to determine the use of UNHCR funds, including the use of such funds by implementing partners; and

(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States.

(b)²⁵ FIRST PROGRAM AUDIT.—The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

²⁴Sec. 701 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 74), restated subsec. (a).

²⁵Sec. 1111(a) of Public Law 104-66 (109 Stat. 723) struck out subsec. (b) and redesignated subsec. (c) as subsec. (b). Former subsec. (b) had required that the U.S. Comptroller General inspect and report to Congress on each program audit.

(2) Administration of the Migration and Refugee Assistance Act of 1962

Executive Order 11077,¹ January 22, 1963, 28 F.R. 629; as amended by Executive Order 11922, June 16, 1976, 41 F.R. 24573; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962 (76 Stat. 121–124; hereinafter referred to as the Act), and as President of the United States, it is ordered as follows:

Section 1. Department of State. (a) The Secretary of State is hereby designated to perform the following:

(1) The functions provided for in sections 2(a) and 2(b)(1) of the Act.

(2) The functions provided for in section 2(b)(2) of the Act, exclusive of so much thereof as is assigned or reserved by the provisions of section 2(1) of this order.

(3) In connection with functions under the Act assigned to the Secretary of State, the functions provided for in sections 3(a), 4(b), and 5(a) of the Act.

(b) The Secretary of State shall from time to time furnish the President documents appropriate for the discharge by the President of his responsibilities under section 2(d) of the Act.²

(c) With due regard for other relevant considerations (including the interests of³ any other executive agencies which may be concerned), the Secretary of State shall assume the leadership and provide the guidance for assuring that programs authorized under the Act best serve the foreign policy objectives of the United States.

(d)⁴ Funds appropriated or otherwise made available to the President for the United States Emergency Refugee and Migration Assistance Fund established by Section 2(c) of the Act (22 U.S.C. 2601) shall be deemed to be allocated without further action of the President to the Secretary of State, and the Secretary may allocate or transfer as appropriate, such funds to any agency, or part thereof, for obligation or expenditure consistent with the provisions of this order, the Act, and other applicable law: *Provided*, That such funds may not be transferred, obligated, or expended until the President shall have made the determinations provided for in Section 2(c)(1) of the Act, which determinations are reserved to the President, and the designations and determinations provided for in Section 2(b)(2) of the Act.

¹ 22 U.S.C. 2603 note.

² Sec. 14(a) of Executive Order 12608 (56 F.R. 34619) deleted the second sentence of subsec. (b), relating to the Secretary of Health, Education, and Welfare.

³ Sec. 14(b) of Executive Order 12608 (56 F.R. 34619) struck out reference to the Department of Health, Education, and Welfare here.

⁴ Subsec. (d) was added by Executive Order 11922 (41 F.R. 24573; June 16, 1976).

Sec. 2.⁵ Redlegation. (a) The Secretary of State may redelegate any of his functions under this order to any of his subordinates.

(b) The Secretary of State may assign to the head of any executive department or to the head of any other agency of the executive branch of the Government, with the consent of the head of the department or agency concerned, the performance or agency concerned, the performance of any functions of the Secretary under this order whenever he deems that such action would be advantageous to the Government.

Sec. 3. Waivers. (a) In accordance with Section 3(b) of the Act, it is hereby determined that it is in furtherance of the purposes of the Act that the functions authorized under the Act may be performed (by any department or agency of the Government authorized to perform those functions) without regard to the following-specified provisions of law:

(1) the Act of March 26, 1934, c. 90, 48 Stat. 500, as amended (15 U.S.C. 616a) (shipment of certain exports in United States vessels).

(2) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(3) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(4) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(5) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(6) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(7) Sections 302-305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252-255) (competitive bids; negotiated contracts; advances).

(8) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a)) (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps shall be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

Sec. 4. Definition. As used in this order, the word "function" or "functions" includes any executive duty, obligation, power, authority, responsibility, right, privilege, discretion or activity.

⁵ Sec. 14(c) of Executive Order 12608 (56 F.R. 34619) struck out sec. 2, designating functions of the Secretary of Health, Education, and Welfare in matters pertaining to the Migration and Refugee Assistance Act of 1962. Sec. 14(d) of that Executive Order renumbered subsequent sections.

Sec. 14(e) of Executive Order 12608 (56 F.R. 34619) struck out reference to the Secretary of Health, Education, and Welfare throughout sec. 2.

Sec. 5. Saving provisions. Except to the extent that they may be inconsistent with law or with this order, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in force and effect until amended, modified, or terminated by appropriate authority.

Sec. 6. Effective date. The provisions of this order shall be effective as of July 1, 1962.

(3) The Immigration and Nationality Act, as amended

Partial text of Public Law 82-414 [H.R. 5678], 66 Stat. 163, approved June 27, 1952; as amended by Public Law 87-510 [Migration and Refugee Assistance Act of 1962, H.R. 8291], 76 Stat. 121, approved June 28, 1962; Public Law 88-426 [H.R. 11049], 78 Stat. 400 at 428, approved August 14, 1964; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 847, approved August 17, 1977; Public Law 100-525 [Immigration Technical Corrections Act of 1988, S. 2479], 102 Stat. 2609, approved October 24, 1988; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996

* * * * *

POWERS AND DUTIES OF THE SECRETARY OF STATE

SEC 104.¹ (a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Administrator;² and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b)³ The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The

¹ 8 U.S.C. 1104. Section heading formerly also referred to "Bureau of Security and Consular Affairs". Sec. 9(d) of Public Law 100-525 (102 Stat. 2620) struck out "SECURITY AND"; sec. 162(h)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Bureau of Consular Affairs".

² Formerly read "Bureau of Security and Consular Affairs". Sec. 109(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847) struck out "Security and"; sec. 162(h)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Bureau of Consular Affairs".

³ Sec. 162(h)(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), amended and rested subsec. (b). Subsec. (b) formerly read as follows:

"(b) There is hereby established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. He shall be charged

Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.

(c) Within the Department of State⁴ there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively.⁵

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

(f)⁶ * * * [Repealed—1977]

* * * * *

SEC. 219.⁷ DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) DESIGNATION.—

(1) IN GENERAL.—The Secretary is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the Secretary finds that—

(A) the organization is a foreign organization;

(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

with any and all responsibility and authority in the administration of the Bureau and of this Act which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.”

In Department of State Public Notice No. 2047 of July 29, 1994 (Delegation of Authority No. 213; 59 F.R. 42323), the Secretary of State designated the Assistant Secretary of State for Consular Affairs as Administrator.

⁴Sec. 162(h)(2)(D) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “Bureau” and inserted in lieu thereof “Department of State”.

⁵Sec. 162(h)(2)(E) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “, of the Bureau of Consular Affairs” after “respectively”.

⁶Subsec. (f) was repealed by sec. 109(b)(1)(D) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847). It formerly read as follows:

“(f) The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.”

⁷8 U.S.C. 1189. Added by sec. 302(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1248). On October 2, 1997, the Secretary of State issued a list designating organizations as foreign terrorist organizations as required by sec. 219(a)(2)(A)(ii). See Department of State Public Notice 2612; 62 F.R. 52650.

- (C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.
- (2) PROCEDURE.—
- (A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—
- (i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and
- (ii) seven days after such notification, publish the designation in the Federal Register.
- (B) EFFECT OF DESIGNATION.—
- (i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).
- (ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.
- (C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.
- (3) RECORD.—
- (A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.
- (B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court *ex parte* and *in camera* for purposes of judicial review under subsection (c).
- (4) PERIOD OF DESIGNATION.—
- (A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).
- (B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs

- (2) and (3) shall apply to a redesignation under this subparagraph.
- (5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).
- (6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—
- (A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—
- (i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or
 - (ii) the national security of the United States warrants a revocation of the designation.
- (B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.
- (7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.
- (8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.
- (b) JUDICIAL REVIEW OF DESIGNATION.—
- (1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.
- (2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.
- (3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—
- (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (B) contrary to constitutional right, power, privilege, or immunity; or
 - (C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.
- (4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.
- (c) DEFINITIONS.—As used in this section—
- (1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term “national security” means the national defense, foreign relations, or economic interests of the United States;

(3) the term “relevant committees” means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

(4) the term “Secretary” means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.

* * * * *

(4) Immigration Reform and Control Act of 1986

Partial text of Public Law 99-603 [S. 1200], 100 Stat. 5649, approved November 5, 1986; as amended by Public Law 100-525 [Immigration Technical Corrections Act of 1988, S. 2479], 102 Stat. 2609 at 2614, approved October 24, 1988

AN ACT To amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.

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

* * * * *

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SEC. 601.¹ COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the “Commission”), to be composed of twelve members—

(A) three members to be appointed by the Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term “sending country” means a for-

¹ 8 U.S.C. 1101 note.

eign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d)² COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.³ Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment.⁴

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

* * * * *

²Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1019), provided \$1,290,000 for salaries and expenses of the Commission, to remain until expended.

³Sec. 304 established a Commission on Agricultural Workers.

⁴Sec. 2(r) of Public Law 100-525 (102 Stat. 2614) added this last sentence.

(5) Refugee Act of 1980

Partial text of Public Law 96-212 [S. 643] 94 Stat. 102, approved March 17, 1980; amended by Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Refugee Act of 1980”.

NOTE.—This Act primarily consists of amendments to the Immigration and Nationality Act (8 U.S.C. 1101). Only those portions directly relating to the Department of State are set out below.

TITLE I—PURPOSE

SEC. 101.¹ (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

* * * * *

¹ 8 U.S.C. 1521 note.

TITLE III—ASSISTANCE FOR EFFECTIVE RESETTLEMENT
OF REFUGEES IN THE UNITED STATES²

* * * * *

²Formerly read “Title III—United States Coordinator for Refugee Affairs and Assistance for * * *”. Sec. 162(m)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out reference to U.S. Coordinator. Para. (2) of that subsec. struck out designation for “Part A—United States Coordinator for Refugee Affairs” under Title III. Para. (3) of that subsec. repealed sec. 301 (8 U.S.C. 1525), which established the position of “United States Coordinator for Refugee Affairs”, with the rank of Ambassador at Large.

(6) Bring Them Home Alive Act of 2000

Public Law 106-484 [S. 484], 114 Stat. 2195, approved November 9, 2000

AN ACT To provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Bring Them Home Alive Act of 2000”.

SEC. 2.¹ AMERICAN VIETNAM WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien who—

(A) is a national of Vietnam, Cambodia, Laos, China, or any of the independent states of the former Soviet Union; and

(B) personally delivers into the custody of the United States Government a living American Vietnam War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN VIETNAM WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “American Vietnam War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Vietnam War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Vietnam War.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such in-

¹ 8 U.S.C. 1157 note.

dividual is officially absent from such individual's post of duty without authority.

(2) **MISSING STATUS.**—The term “missing status”, with respect to the Vietnam War, means the status of an individual as a result of the Vietnam War if immediately before that status began the individual—

(A) was performing service in Vietnam; or

(B) was performing service in Southeast Asia in direct support of military operations in Vietnam.

(3) **VIETNAM WAR.**—The term “Vietnam War” means the conflict in Southeast Asia during the period that began on February 28, 1961, and ended on May 7, 1975.

SEC. 3.¹ AMERICAN KOREAN WAR POW/MIA ASYLUM PROGRAM.

(a) **ASYLUM FOR ELIGIBLE ALIENS.**—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) **ELIGIBILITY.**—Refugee status shall be granted under subsection (a) to—

(1) any alien—

(A) who is a national of North Korea, China, or any of the independent states of the former Soviet Union; and

(B) who personally delivers into the custody of the United States Government a living American Korean War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) **DEFINITIONS.**—In this section:

(1) **AMERICAN KOREAN WAR POW/MIA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “American Korean War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Korean War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Korean War.

(B) **EXCLUSION.**—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

(2) **KOREAN WAR.**—The term “Korean War” means the conflict on the Korean peninsula during the period that began on June 27, 1950, and ended January 31, 1955.

(3) **MISSING STATUS.**—The term “missing status”, with respect to the Korean War, means the status of an individual as a result of the Korean War if immediately before that status began the individual—

(A) was performing service in the Korean peninsula; or
(B) was performing service in Asia in direct support of
military operations in the Korean peninsula.

SEC. 4.¹ BROADCASTING INFORMATION ON THE “BRING THEM HOME ALIVE” PROGRAM.

(a) **REQUIREMENT.**—

(1) **IN GENERAL.**—The International Broadcasting Bureau shall broadcast, through WORLDNET Television and Film Service and Radio, VOA-TV, VOA Radio, or otherwise, information that promotes the “Bring Them Home Alive” refugee program under this Act to foreign countries covered by paragraph (2).

(2) **COVERED COUNTRIES.**—The foreign countries covered by paragraph (1) are—

(A) Vietnam, Cambodia, Laos, China, and North Korea; and

(B) Russia and the other independent states of the former Soviet Union.

(b) **LEVEL OF PROGRAMMING.**—The International Broadcasting Bureau shall broadcast—

(1) at least 20 hours of the programming described in subsection (a)(1) during the 30-day period that begins 15 days after the date of enactment of this Act; and

(2) at least 10 hours of the programming described in subsection (a)(1) in each calendar quarter during the period beginning with the first calendar quarter that begins after the date of enactment of this Act and ending five years after the date of enactment of this Act.

(c) **AVAILABILITY OF INFORMATION ON THE INTERNET.**—The International Broadcasting Bureau shall ensure that information regarding the “Bring Them Home Alive” refugee program under this Act is readily available on the World Wide Web sites of the Bureau.

(d) **SENSE OF CONGRESS.**—It is the sense of Congress that RFE/RL, Incorporated, Radio Free Asia, and any other recipient of Federal grants that engages in international broadcasting to the countries covered by subsection (a)(2) should broadcast information similar to the information required to be broadcast by subsection (a)(1).

(e) **DEFINITION.**—The term “International Broadcasting Bureau” means the International Broadcasting Bureau of the United States Information Agency or, on and after the effective date of title XIII of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277), the International Broadcasting Bureau of the Broadcasting Board of Governors.

SEC. 5.¹ INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.

In this Act, the term “independent states of the former Soviet Union” has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(7) Syrian Nationals—Adjustment of Immigration Status¹

Public Law 106–378 [H.R. 4681], 114 Stat. 1442, approved October 27, 2000

AN ACT To provide for the adjustment of status of certain Syrian nationals.

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

SECTION 1. FINDINGS.

The Congress finds as follows:

(1) President Bush and President Clinton successively conducted successful negotiations with the Government of Syria to bring about the release of members of the Syrian Jewish population and their immigration to the United States.

(2) In order to accommodate the Syrian Government, the United States was required to admit these aliens by first granting them temporary nonimmigrant visas and subsequently granting them asylum, rather than admitting them as refugees (as is ordinarily done when the United States grants refuge to members of a persecuted alien minority group).

(3) The asylee status of these aliens has resulted in a long and unnecessary delay in their adjustment to lawful permanent resident status that would not have been encountered had they been admitted as refugees.

(4) This delay has impaired these aliens' ability to work in their chosen professions, travel freely, and apply for naturalization.

(5) The Attorney General should act without further delay to grant lawful permanent resident status to these aliens in accordance with section 2.

SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN SYRIAN NATIONALS.

(a) ADJUSTMENT OF STATUS.—Subject to subsection (c), the Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(1) applies for adjustment of status under this section not later than 1 year after the date of the enactment of this Act or applied for adjustment of status under the Immigration and Nationality Act before the date of the enactment of this Act;

(2) has been physically present in the United States for at least 1 year after being granted asylum;

(3) is not firmly resettled in any foreign country; and

(4) is admissible as an immigrant under the Immigration and Nationality Act at the time of examination for adjustment of such alien.

¹ 8 U.S.C. 1255 note.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who—

(A) is a Jewish national of Syria;

(B) arrived in the United States after December 31, 1991, after being permitted by the Syrian Government to depart from Syria; and

(C) is physically present in the United States at the time of filing the application described in subsection (a)(1); or

(2) who is the spouse, child, or unmarried son or daughter of an alien described in paragraph (1).

(c) NUMERICAL LIMITATION.—The total number of aliens whose status may be adjusted under this section may not exceed 2,000.

(d) RECORD OF PERMANENT RESIDENCE.—Upon approval of an application for adjustment of status under this section, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date 1 year before the date of the approval of the application.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)).

(f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—Whenever an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(g) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(8) Irish Peace Process Cultural and Training Program Act ¹

Public Law 105–319 [H.R. 4293], 112 Stat. 3013, approved October 30, 1998

AN ACT To establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Irish Peace Process Cultural and Training Program Act of 1998”.

SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.

(a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Attorney General shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process. The program shall promote cross-community and cross-border initiatives to build grass-roots support for long-term peaceful coexistence. The Secretary of State and the Attorney General shall cooperate with non-governmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

(2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 3 consecutive program years.

(B) OFFSET IN NUMBER OF H–2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Immigration and Naturalization Service shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of the third program year and for the 3 subsequent years, the Immigration and Naturalization Service shall compile and submit to the

¹ 8 U.S.C. 1101 note.

Congress a report on the number of aliens admitted with non-immigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term “designated counties” means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by inserting “(i)” after “(Q)”; and

(B) by inserting after the semicolon at the end the following: “or (ii)(I) an alien 35 years of age or younger having a residence in Northern Ireland, or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 36 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Attorney General under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(d) SUNSET.—

(1) Effective October 1, 2005, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

(2) Effective October 1, 2005, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by striking “or” at the end of clause (i);

(B) by striking “(i)” after “(Q)”; and

(C) by striking clause (ii).

(9) Interdiction of Illegal Aliens

Executive Order 12807, May 24, 1992, 57 F.R. 23133, 8 U.S.C. 1182 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), and whereas:

(1) The President has authority to suspend the entry of aliens coming by sea to the United States without necessary documentation, to establish reasonable rules and regulations regarding, and other limitations on, the entry or attempted entry of aliens into the United States, and to repatriate aliens interdicted beyond the territorial sea of the United States;

(2) The international legal obligations of the United States under the United Nations Protocol Relating to the Status of Refugees (U.S. T.I.A.S. 6577; 19 U.S.T. 6223) to apply Article 33 of the United Nations Convention Relating to the Status of Refugees do not extend to persons located outside the territory of the United States;

(3) Proclamation No. 4865 suspends the entry of all undocumented aliens into the United States by the high seas; and

(4) There continues to be a serious problem of persons attempting to come to the United States by sea without necessary documentation and otherwise illegally;

I, GEORGE BUSH, President of the United States of America, hereby order as follows:

Section 1. The Secretary of States shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating in consultation, where appropriate, with the Secretary of Defense, the Attorney General, and the Secretary of State, shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens by sea and the interdiction of any defined vessel carrying such aliens.

(b) Those instruments shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented or numbered pursuant to the laws of the United States, or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord

with Article 5 of the Convention on the High Seas of 1958 (U.S. T.I.A.S. 5200; 13 U.S.T. 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the convention on the High Seas of 1958 (U.S. T.I.A.S. 5222; 13 U.S.T. 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to carry out this order.

(3) To return the vessel and its passengers to the country from which it came, or to another country, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that the Attorney General, in his unreviewable discretion, may decide that a person who is a refugee will not be returned without his consent.

(d) these actions, pursuant to this section, as authorized to be undertaken only beyond the territorial sea of the United States.

Sec. 3. This order is intended only to improve the internal management of the Executive Branch. Neither this order nor any agency guidelines, procedures, instructions, directives, rules or regulations implementing this order shall create, or shall be construed to create, any right or benefit, substantive or procedural (including without limitation any right or benefit under the Administrative Procedure Act), legally enforceable by any party against the United States, its agencies or instrumentalities, officers, employees, or any other person. Nor shall this order be construed to require any procedures to determine whether a person is a refugee.

Sec. 4. Executive Order 12324 is hereby revoked and replaced by this order.

Sec. 5. This order shall be effective immediately.

(10) Consultations on the Admission of Refugees

Executive Order 12208, April 15, 1980, 45 F.R. 25789, 8 U.S.C. 1157 note; as amended by Executive Order 12608, September 9, 1987, 52 F.R. 34620

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Refugee Act of 1980 (P.L. 96-212; 8 U.S.C. 1101 note), the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*), and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. Exclusive of the functions otherwise delegated, or reserved to the President, by this Order, there are hereby delegated the following functions:

(a) To the Secretary of State and the Attorney General, or either of them, the functions of initiating and carrying out appropriate consultations with members of the Committees on the Judiciary of the Senate and of the House of Representatives for purposes of Sections 101(a)(42)(B) and 207 (a), (b), (d), and (e) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(42)(B) and 1157(a), (b), (d), and (e)).

(b) To the United States Coordinator for Refugee Affairs, the functions of reporting and carrying on periodic discussions under section 207(d)(1) of the Immigration and Nationality Act, as amended.

1-102. (a) The functions vested in the United States Coordinator for Refugee Affairs by Section 1-101(b) of this Order shall be carried out in consultation with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services.¹

(b) The United States Coordinator shall notify the Committees on the Judiciary of the Senate and of the House of Representatives that the Secretary of State and the Attorney General, or either of them, wish to consult for the purposes of Section 207 (a), (b), or (d) of the Immigration and Nationality Act, as amended. The United States Coordinator for Refugee Affairs shall, in accord with his responsibilities under Section 301 of the Refugee Act of 1980 (8 U.S.C. 1525), prepare for those Committees the information required by 207(e) of the Immigration and Nationality Act, as amended.

1-103. There are reserved to the President the following functions under the Immigration and Nationality Act, as amended:

(a) To specify special circumstances for purposes of qualifying persons as refugees under Section 101(a)(42)(B).

(b) To make determinations under Sections 207(a)(1), 207(a)(2), 207(a)(3) and 207(b).

¹The words to this point beginning with "Secretary of Health * * *" were substituted in lieu of "Secretary of Health, Education, and Welfare" by Executive Order 12608 (September 14, 1986; 52 F.R. 34620).

(c) To fix the number of refugees to be admitted under Section 207(b).

1-104. Except to the extent inconsistent with this Order, all actions previously taken pursuant to any function delegated or assigned by this Order shall be deemed to have been taken and authorized by this Order.

b. Caribbean

(1) Haitian Refugee Immigration Fairness Act of 1998

Partial text of Public Law 105-277 [H.R. 4328], 112 Stat. 2681-538, approved October 21, 1998; amended by Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; and by Public Law 106-554 [H.R. 4577], 114 Stat. 2763, approved December 21, 2000

TITLE IX—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998¹

SEC. 901. SHORT TITLE. This title may be cited as the “Haitian Refugee Immigration Fairness Act of 1998”.

SEC. 902.² ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.—(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2)³ INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

¹ 8 U.S.C. 1101 note.

² 8 U.S.C. 1255 note.

³ Sec. 1505(b)(1) of Public Law 106-554 (114 Stat. 2763A-326) redesignated para. (2) as para. (3), and added a new para. (2). Sec. 1505(b)(2) of that Act provided:

“(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.”.

(3)³ RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except

where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B)⁴ (i) the alien is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

⁴Sec. 1511(a) of Public Law 106-386 (114 Stat. 1532) amended and restated subpara. (B). It previously read as follows:

“(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed.”

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

(k) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter (until all applications for adjustment of status under this section have been finally adjudicated), the Comptroller General of the United States shall submit

to the Committees on the Judiciary and the Committees on Appropriations of the United States House of Representatives and the United States Senate a report containing the following:

(1)(A) The number of aliens who applied for adjustment of status under subsection (a), including a breakdown specifying the number of such applicants who are described in subparagraph (A), (B), or (C) of subsection (b)(1), respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

(2)(A) The number of aliens who applied for adjustment of status under subsection (d), including a breakdown specifying the number of such applicants who are sponsors, children, or unmarried sons or daughters described in such subsection, respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

SEC. 903.⁵ COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS.—(a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

(10) A description of the disposition of cases.

(b) ANNUAL REPORTS.—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. 904.⁶ COLLECTION OF DATA ON OTHER DETAINED ALIENS.—

(a) IN GENERAL.—The Attorney General shall regularly collect data

⁵ 8 U.S.C. 1377.

⁶ 8 U.S.C. 1378.

on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 903, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS.—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) CRIMINAL ALIENS.—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) ANNUAL REPORTS.—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

(2) Nicaraguan Adjustment and Central American Relief Act

Partial text of Public Law 105–100 [H.R. 2607], 111 Stat. 2160, November 19, 1997; amended by Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; and by Public Law 106–554 [H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

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

TITLE II—CLARIFICATION OF ELIGIBILITY FOR RELIEF FROM REMOVAL AND DEPORTATION FOR CERTAIN ALIENS

SEC. 201.¹ SHORT TITLE.—This title may be cited as the “Nicaraguan Adjustment and Central American Relief Act”.

SEC. 202.² ADJUSTMENT OF STATUS OF CERTAIN NICARAGUANS AND CUBANS. (a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The³ status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B)⁴ is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B)⁵ of section 212(a) of the Immigration and Nationality Act shall not apply.

(2)⁶ RULES IN APPLYING CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

¹ 8 U.S.C. 1101 note.

² 8 U.S.C. 1255 note.

³ Sec. 1(a)(1) of Public Law 105–139 (111 Stat. 2644) struck out “Notwithstanding section 245(c) of the Immigration and Nationality Act, the” and inserted in lieu thereof “The”.

⁴ Sec. 1(a)(2)(A) of Public Law 105–139 (111 Stat. 2644) struck out “is otherwise eligible to receive an immigrant visa and” at the beginning of subpara. (B).

⁵ Sec. 1(a)(2)(B) of Public Law 105–139 (111 Stat. 2644) added reference to para. (9)(B).

⁶ Sec. 1505(a)(1) of Public Law 106–554 (114 Stat. 2763A–326) redesignated para. (2) as para. (3), and added a new para. (2). Sec. 1505(a)(2) of that Act provided the following:

“(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustments under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.”

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3)⁶ RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Nicaragua or Cuba and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than December 1, 1995, an alien—

(A) shall demonstrate that the alien, prior to December 1, 1995—

- (i) applied to the Attorney General for asylum;
- (ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act (as in effect prior to April 1, 1997);
- (iii) was placed in exclusion proceedings under section 236 of such Act (as so in effect);
- (iv) applied for adjustment of status under section 245 of such Act;
- (v) applied to the Attorney General for employment authorization;
- (vi) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

(vii) applied for any other benefit under the Immigration and Nationality Act by means of an application establishing the alien's presence in the United States prior to December 1, 1995; or

(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The⁷ status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Nicaragua or Cuba;

(B)⁸ the alien—

(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed;

or

⁷Sec. 1(b)(1) of Public Law 105-139 (111 Stat. 2644) struck out “Notwithstanding section 245(c) of the Immigration and Nationality Act, the” and inserted in lieu thereof “The”.

⁸Sec. 1510(a)(1) of Public Law 106-386 (114 Stat. 1531) amended and restated subpara. (B). It previously read as follows:

“(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under this subsection is filed;”

(ii) was, at the time at which an alien filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien⁹ is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility¹⁰ specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B)¹¹ of section 212(a) of the Immigration and Nationality Act shall not apply; and

(E) applies for such adjustment before April 1, 2000.

(2) **PROOF OF CONTINUOUS PRESENCE.**—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien—

(A) shall demonstrate that such period commenced not later than December 1, 1995, in a manner consistent with subsection (b)(2); and

(B) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period in the aggregate not exceeding 180 days.

(3)¹² **PROCEDURE.**—In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(H).

(e) **AVAILABILITY OF ADMINISTRATIVE REVIEW.**—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) **LIMITATION ON JUDICIAL REVIEW.**—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas author-

⁹Sec. 1(b)(2)(A) of Public Law 105-139 (111 Stat. 2644) struck out “is otherwise eligible to receive an immigrant visa and” after “the alien”.

¹⁰Sec. 1(b)(2)(B) of Public Law 105-139 (111 Stat. 2644) struck out “exclusion” and inserted in lieu thereof “inadmissibility”.

¹¹Sec. 1(b)(2)(C) of Public Law 105-139 (111 Stat. 2644) added the reference to para. (9)(B).

¹²Sec. 1510(a)(2) of Public Law 106-386 (114 Stat. 1531) added para. (3).

ized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. MODIFICATION OF CERTAIN TRANSITION RULES. (a) TRANSITIONAL RULES WITH REGARD TO SUSPENSION OF DEPORTATION.—

(1) IN GENERAL.—Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows: * * *

(2) CONFORMING AMENDMENT.—Subsection (c) of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-625) is amended by striking the subsection designation and the subsection heading and inserting the following: * * *

(b) SPECIAL RULE FOR CANCELLATION OF REMOVAL.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625) is amended by adding at the end the following: * * *

(c) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625), as amended by subsection (b), is further amended by adding at the end the following: * * *

(d)¹³ TEMPORARY REDUCTION IN DIVERSITY VISAS.—

(1) Beginning in fiscal year 1999, subject to paragraph (2), the number of visas available for a fiscal year under section 201(e) of the Immigration and Nationality Act shall be reduced by 5,000 from the number of visas otherwise¹⁴ available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) one-half of the total number of individuals described in subclauses (I), (II), (III), and (IV) of section 309(c)(5)(C)(i)¹⁵ of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 who have adjusted their status to that of aliens lawfully admitted for perma-

¹³ 8 U.S.C. 1151 note.

¹⁴ Sec. 1(d)(1) of Public Law 105-139 (111 Stat. 2644) inserted “otherwise” before “available under that section”.

¹⁵ Sec. 1(d)(2)(A) of Public Law 105-139 (111 Stat. 2645) struck out “309(c)(5)(C)” and inserted in lieu thereof “309(c)(5)(C)(i)”.

nent residence under the Nicaraguan Adjustment and Central American Relief Act as of the end of the previous fiscal year;¹⁶ exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(e)¹⁷ TEMPORARY REDUCTION IN OTHER WORKERS' VISAS.—

(1) Beginning in the fiscal year following the fiscal year in which a visa has been made available under section 203(b)(3)(A)(iii) of the Immigration and Nationality Act for all aliens who are the beneficiary of a petition approved under section 204 of such Act as of the date of the enactment of this Act for classification under section 203(b)(3)(A)(iii) of such Act, subject to paragraph (2), visas available under section 203(b)(3)(A)(iii) of that Act shall be reduced by 5,000 from the number of visas otherwise available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) the number computed under subsection (d)(2)(A);¹⁸ exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(f)¹⁹ EFFECTIVE DATE.—The amendments made by this section to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 shall take effect as if included in the enactment of such Act.

SEC. 204. LIMITATION ON CANCELLATIONS OF REMOVAL AND SUSPENSIONS OF DEPORTATION. (a) ANNUAL LIMITATION.—Section 240A(e) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)) is amended to read as follows: * * *

(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended in each of paragraphs (1) and (2) * * *

(c) RECORDATION OF DATE.—Section 240A(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(3)) is amended to read as follows: * * *

(d) APRIL 1 EFFECTIVE DATE FOR AGGREGATE LIMITATION.—Section 309(c)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows: * * *

(e)²⁰ EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546).

¹⁶ Sec. 1(d)(2)(B) of Public Law 105-139 (111 Stat. 2645) inserted the semicolon.

¹⁷ 8 U.S.C. 1153 note.

¹⁸ Sec. 1(e) of Public Law 105-139 (111 Stat. 2645) replaced a comma with a semicolon at this point.

¹⁹ 8 U.S.C. 1101 note.

²⁰ 8 U.S.C. 1229b note.

(3) Cuban Political Prisoners and Immigrants

Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-39, approved December 22, 1987

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

* * * * *

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

* * * * *

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701.¹ This title may be cited as “Cuban Political Prisoners and Immigrants”.

SEC. 702.¹ (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application

¹ 8 U.S.C. 1201 note. See also sec. 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1401), relating to processing of Cuban nationals for admission to the United States.

for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “process” means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term “refugee” has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

* * * * *

(4) Refugee Education Assistance Act of 1980

Partial text of Public Law 96-422 [H.R. 7859], 94 Stat. 1799, approved
October 10, 1980

AN ACT To provide general assistance educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid of such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Education Assistance Act of 1980".

* * * * *

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501.¹ (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(a)(1)(A) Any Federal agency may, under the direction of the president, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they

¹ 8 U.S.C. 1522 note.

incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or non-reimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) To facilitate the transfer of the functions described in paragraph (1) from the Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrant" means—

(1) any individual granted parole status as a Cuban-Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

(5) Cuban Refugee Adjustment Act of 1966¹

Partial text of Public Law 89-732 [H.R. 15183], 80 Stat. 1161, approved November 2, 1966; amended by Public Law 94-571 [Immigration and Nationality Act Amendments of 1976, H.R. 14535], 90 Stat. 2703, approved October 20, 1976; Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat. 102, approved March 17, 1980; and by Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000

AN ACT To adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes.

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

Notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act, the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year,² may be adjusted by the Attorney General, in his direction and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).³

SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United

¹8 U.S.C. 1255 note.

²Sec. 203(i) of the Refugee Act of 1980 (Public Law 96-212; 94 Stat. 108) struck out "two years" and inserted in lieu thereof "one year".

³Sec. 1509(a) of Public Law 106-386 (114 Stat. 1530) added text to this point beginning with " , except that such spouse".

States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

* * * * *

SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 5.⁴ The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976.

⁴ Added by sec. 8 of Public Law 94-571 (90 Stat. 2706).

(6) Cuban and Haitian Entrants

Executive Order 12341, January 21, 1982, 47 F.R. 3341, 8 U.S.C. 1522 note

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) and Section 301 of Title 3 of the United States Code, and to reassign some responsibilities for providing assistance to Cuban and Haitian entrants, it is hereby ordered as follows:

Section 1. The functions vested in the President by Sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, hereinafter referred to as the Act (8 U.S.C. 1522 note), are delegated to the Secretary of Health and Human Services.

Sec. 2. The Attorney General shall ensure that actions are taken to provide such assistance to Cuban and Haitian entrants as provided for by Section 501(c) of the Act. To that end, the functions vested in the President by Section 501(c) of the Act are delegated to the Attorney General.

Sec. 3. All actions taken pursuant to Executive Order No. 12251 shall continue in effect until superseded by actions under this Order.

Sec. 4. Executive Order No. 12251 of November 15, 1980, is revoked.

c. China and Indochina

(1) Visas for Officials of Taiwan

Partial text of Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305 at 4320, approved October 25, 1994

AN ACT To amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

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

* * * * *

SEC. 221.¹ VISAS FOR OFFICIALS OF TAIWAN.

Whenever the President of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning—

- (1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;
- (2) prevention of nuclear proliferation;
- (3) threats to the national security of the United States;
- (4) the protection of the global environment;
- (5) the protection of endangered species; or
- (6) regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.

* * * * *

¹ 8 U.S.C. 1101 note.

(2) Chinese Student Protection Act of 1992

Public Law 102–404 [S. 1216], 106 Stat. 1969, approved October 9, 1992

AN ACT To provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Chinese Student Protection Act of 1992”.

SEC. 2.¹ ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

¹ 8 U.S.C. 1255 note.

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(e) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term “applicable fiscal year” means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term “application period” means the 12-month period beginning July 1, 1993.

(3) Indochinese Refugee Resettlement and Protection Act of 1987

Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-40, approved December 22, 1987

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

* * * * *

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

* * * * *

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987¹

SEC. 801. This title may be cited as the “Indochinese Refugee Resettlement and Protection Act of 1987”.

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region’s camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting ap-

¹Legislation nearly identical to secs. 801 through 803 of this Act was enacted as sec. 904 of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204; 101 Stat. 1402).

proximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border.

The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee

program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804.² FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

* * * * *

²Sec. 804 was also enacted as sec. 905(a), paragraphs (1) through (5), of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204; 101 Stat. 1404).

**(4) Eligibility Criteria for Admission of Refugees from
Cambodia**

Partial text of Public Law 95-624 [Department of Justice Appropriation Authorization Act, Fiscal Year 1979; S. 3151], 92 Stat. 3459, approved November 9, 1978

AN ACT To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assemble, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

* * * * *

SEC. 16.¹ The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

* * * * *

¹ 8 U.S.C. 1255 note.

(5) Indochina Refugees—Status Adjustment

Partial text of Public Law 95-145 [H.R. 7769], 91 Stat. 1223, approved October 28, 1977; amended by Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat 102, approved March 17, 1980

AN ACT To authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.

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

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES¹

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least one year.²

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that

¹8 U.S.C. 1255 note.

²Sec. 203(i) of the Refugee Act of 1980 (Public Law 96-212; 94 Stat. 108) struck out "two years" and inserted in lieu thereof "one year".

status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

* * * * *

(6) Policy Implementation With Respect to Nationals of the People's Republic of China

Executive Order 12711, April 11, 1990, 55 F.R. 13897, 8 U.S.C. 1101 note

By the authority vested in me as President by the Constitution and laws of the United States of America, the Attorney General and the Secretary of State are hereby ordered to exercise their authority, including that under the Immigration and Nationality Act (8 U.S.C. 1101-1557), as follows:

Section 1. The Attorney General is directed to take any steps necessary to defer until January 1, 1994, the enforced departure of all nationals of the People's Republic of China (PRC) and their dependents who were in the United States on or after June 5, 1989, up to and including the date of this order (hereinafter "such PRC nationals").

Sec. 2. The Secretary of State and the Attorney General are directed to take all steps necessary with respect to such PRC nationals (a) to waive through January 1, 1994, the requirement of a valid passport and (b) to process and provide necessary documents, both within the United States and at U.S. consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure.

Sec. 3. The Secretary of State and the Attorney General are directed to provide the following protections:

(a) irrevocable waiver of the 2-year home country residence requirement that may be exercised until January 1, 1994, for such PRC nationals;

(b) maintenance of lawful status for purposes of adjustment of status or change of nonimmigrant status for such PRC nationals who were in lawful status at any time on or after June 5, 1989, up to and including the date of this order;

(c) authorization for employment of such PRC nationals through January 1, 1994; and

(d) notice of expiration of nonimmigrant status (if applicable) rather than the institution of deportation proceedings, and explanation of options available for such PRC nationals eligible for deferral of enforced departure whose nonimmigrant status has expired.

Sec. 4. The Secretary of State and the Attorney General are directed to provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization, as implemented by the Attorney General's regulation effective January 29, 1990.

Sec. 5. The Attorney General is directed to ensure that the Immigration and Naturalization Service finalizes and makes public its position on the issue of training for individuals in F-1 visa status

and on the issue of reinstatement into lawful nonimmigrant status of such PRC nationals who have withdrawn their applications for asylum.

Sec. 6. The Departments of Justice and State are directed to consider other steps to assist such PRC nationals in their efforts to utilize the protections that I have extended pursuant to this order.

Sec. 7. This order shall be effective immediately.

d. Former Soviet Union

(1) Soviet Scientists Immigration Act of 1992

Public Law 102-509 [S. 2201], 106 Stat. 3316, approved October 24, 1992

AN ACT To authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Soviet Scientists Immigration Act of 1992”.

SEC. 2.¹ DEFINITIONS.

For purposes of this Act—

(1) the term “Baltic states” means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term “independent states of the former Soviet Union” means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term “eligible independent states and Baltic scientists” means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

SEC. 3.¹ WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)) that an alien’s services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

SEC. 4.¹ CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess “exceptional ability in the sciences”, for purposes of section 203(b)(2)(A) of the Immigration

¹ 8 U.S.C. 1153 note.

and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

(2) Adjustment of Status for Soviet and Indochinese Parolees

Partial text of Public Law 101-167 [H.R. 3743], 103 Stat. 1195, approved November 21, 1989; amended by Public Law 101-513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102-232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991; Public Law 102-391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104-208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104-319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105-118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105-277 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f)); H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Department of Health and Human Services Appropriations Act, 2000; title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and by Public Law 106-554 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001; H.R. 5656, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes, namely:

* * * * *

TITLE V—GENERAL PROVISIONS

* * * * *

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE
PAROLEES

SEC. 599E.¹ (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,² Vietnam, Laos, or Cambodia, and

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2001,³ after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A)⁴ of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph⁵ (A), (B), (C), or (E) of paragraph (3))⁶ with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

¹ 8 U.S.C. 1255 note.

² Sec. 582(b)(2) of Public Law 102-391 (106 Stat. 1686) struck out “of the Soviet Union,” and inserted in lieu thereof “of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania.” Sec. 905(b)(2) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3356) made the same amendment.

³ Sec. 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2063), struck out “September 30, 1990” at this point and inserted in lieu thereof “September 30, 1992”. Subsequently, sec. 582(a)(2) of Public Law 102-391 (106 Stat. 1686) extended the date to September 30, 1994. Sec. 512(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 466) further extended this date to September 30, 1996. Sec. 575(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009) further extended the date to September 30, 1997. Sec. 101(2) of Public Law 104-319 (110 Stat. 3864) made the same amendment as Public Law 104-208. Sec. 574(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118; 111 Stat. 2432) extended the date to September 30, 1998. Sec. 705(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105-277; 112 Stat. 2681) extended this date to September 30, 1999. Sec. 214(2) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106-113; 113 Stat. 1535), extended this date to September 30, 2000. Sec. 212(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106-554; 114 Stat. 2763), extended the date to September 30, 2001.

⁴ Sec. 603(a)(22) of Public Law 101-649 (104 Stat. 5084) struck out “(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)” and inserted in lieu thereof “(4), (5), and (7)(A)”.

⁵ Sec. 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4319) struck out “and subparagraphs” and inserted in lieu thereof “or subparagraph”.

⁶ Sec. 307(l)(9) of Public Law 102-232 (105 Stat. 1757) struck out “(23)(B), (27), (29), or (33)” and inserted in lieu thereof “(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)”.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

11. Recognition by the United States of Foreign Governments

Senate Resolution 205, 91st Congress, Report No. 91-338, agreed to September 25, 1969

RESOLUTION To set forth as an expression of the sense of the Senate a basic principle regarding the recognition by the United States of foreign governments.

Whereas official statements over the last fifty years concerning the policy of the United States in granting or withholding recognition of a foreign government have given rise to uncertainty as to whether United States recognition of a foreign government implies approval of such a government; and

Whereas recognition by the United States of foreign governments has been interpreted by many Americans and by many foreigners as implying United States approval of those foreign governments; and

Whereas such uncertainty adversely affects the interests of the United States in its relations with foreign nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not of itself imply that the United States approves of the form, ideology, or policy of that foreign government.

12. The Asia Foundation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1038, approved November 22, 1983; amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

* * * * *

TITLE IV—THE ASIA FOUNDATION

SHORT TITLE

SEC. 401. This title may be cited as “The Asia Foundation Act”.

FINDINGS

SEC. 402.¹ The Congress finds that—

(1) The Asia Foundation, a private nonprofit corporation incorporated in 1954 in the State of California, has long been active in promoting Asian-American friendship and cooperation and in lending encouragement and assistance to Asians in their own efforts to develop more open, more just, and more democratic societies;

(2) The Asia Foundation’s commitment to strengthening indigenous Asian institutions which further stable national development, constructive social change, equitable economic growth, and cooperative international relationships is fully consistent with and supportive of long-term United States interests in Asia;

(3) The Asia Foundation, as a private organization, is able to conduct programs in response to Asian initiatives that would be difficult or impossible for an official United States instrumentality, and it is in a position in Asia to respond quickly and flexibly to meet new opportunities;

¹ 22 U.S.C. 4401.

(4) in recognition of the valuable contributions of The Asia Foundation to long-range United States foreign policy interests, the United States Government has, through a variety of agencies, provided financial support for The Asia Foundation; and

(5) it is in the interest of the United States, and the further strengthening of Asian-American friendship and cooperation, to establish a more permanent mechanism for United States Government financial support for the ongoing activities of The Asia Foundation, while preserving the independent character of the Foundation.

GRANTS TO THE ASIA FOUNDATION

SEC. 403.² (a) The Secretary of State shall make an annual grant to The Asia Foundation with the funds made available under section 404. Such grants shall be in general support of the Foundation's programs and operations. The terms and conditions of grants pursuant to this section shall be set forth in a grant agreement between the Secretary of State and The Asia Foundation.

(b) If funds made available to The Asia Foundation pursuant to this title or pursuant to any other provision of law are, with the permission of the head of the Federal agency making the funds available, invested by the Foundation or any of its subgrantees pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if that interest is used for the purposes for which the funds were made available.

FUNDING

SEC. 404.³ AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State \$15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this title.

² 22 U.S.C. 4402.

³ 22 U.S.C. 4403. Sec. 105 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the current text of this section.

The authorization for each of fiscal years 1986 and 1987 was \$10,500,000; fiscal year 1988—\$13,700,000; fiscal year 1989—\$15,000,000; fiscal year 1990—\$13,900,000 and fiscal year 1991—\$18,000,000 (Public Law 101-246); fiscal year 1992—\$16,000,000 and fiscal year 1993—\$18,000,000 (Public Law 102-138); and fiscal years 1998 and 1999—\$10,000,000 (Public Law 105-277).

For fiscal years 1990 and 1991, this section also provided that:

“(b) ALLOCATION OF FUNDS.—Of amounts authorized to be appropriated under subsection (a), \$1,324,000 for the fiscal year 1990 and \$1,324,000 for the fiscal year 1991 shall be available only for the expansion of programs and services (including the establishment of a field office) for Oceania, comprised of Polynesia, Micronesia, and Melanesia.”

Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90) waived sec. 404(b), as amended by sec. 501 of that Act, for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

The Department of State and Related Agency Appropriations Act, 2001 (H.R. 5548, enacted by reference in sec. 1(a) of Public Law 106-553; 114 Stat. 2672), provided the following:

“PAYMENT TO THE ASIA FOUNDATION

“For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, \$9,250,000, to remain available until expended, as authorized.”

E. INFORMATION AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

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**1. United States Information and Educational Exchange Act
and Related Materials**

**a. United States Information and Educational Exchange Act
of 1948, as amended**

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**a. United States Information and Educational Exchange Act
of 1948, as amended**

Public Law 80-402 [H.R. 3342], 62 Stat. 6, approved January 27, 1948; as amended by Public Law 82-298 [S. 2077], 66 Stat. 43, approved April 5, 1952; Public Law 82-414 [Immigration and Nationality Act, H.R. 5678], 66 Stat. 276, approved June 27, 1952; Public Law 83-665 [Mutual Security Act of 1954, H.R. 9678], 68 Stat. 862, approved August 26, 1954; Public Law 84-555 [S. 2562], 70 Stat. 241, approved June 4, 1956; Public Law 84-726 [Mutual Security Act of 1956, H.R. 11356], 70 Stat. 555, approved July 18, 1956; Public Law 85-477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 87-139 [H.R. 3279], 75 Stat. 339, approved August 14, 1961; Public Law 87-256 [Mutual Educational and Cultural Exchange Act of 1961, H.R. 8666], 75 Stat. 527, approved September 21, 1961; Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92-264 [S. 18], 86 Stat. 114, approved March 30, 1972; Public Law 92-352 [Foreign Relations Authorization Act of 1972, H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 92-394 [S. 3645], 86 Stat. 577, approved August 20, 1972; Public Law 93-59 [S. 1972], 87 Stat. 142, approved July 6, 1973; Public Law 93-168 [USIA Appropriations Authorization Act of 1973, S. 2681], 87 Stat. 688, approved November 29, 1973; Public Law 93-475 [USIA Authorization Act, Fiscal Year 1975; S. 3473], 88 Stat. 1439, approved October 26, 1974; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 974, approved October 7, 1978; Public Law 96-60 [International Communication Agency Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979; Public Law 96-470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2240, approved October 19, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, subdivision B of division G; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference; H.R. 3427], 113 Stat. 1536, approved November 29, 1999; and by Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

AN ACT To promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations.

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

TITLE I—SHORT TITLE, OBJECTIVES, AND DEFINITIONS

SHORT TITLE

SECTION 1. This Act may be cited as the “United States Information and Educational Exchange Act of 1948”.¹

OBJECTIVES

SEC. 2.² The Congress hereby declares that the objectives of this Act are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are—

(1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs;

(2) [Repealed by Public Law 87-256 (75 Stat. 527; 22 U.S.C. 1431(a)), approved September 21, 1961.]

UNITED NATIONS

SEC. 3.³ In carrying out the objectives of this Act, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized.

DEFINITIONS

SEC. 4.⁴ When used in this Act, the term—

(1)⁵ “Secretary” means the Secretary of State.

¹ Popularly referred to as the Smith-Mundt Act. See, however, the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-762), particularly title XVI relating to the transition toward consolidating foreign relations agencies and under the Department of State.

² 22 U.S.C. 1431. In an effort to strengthen the objectives and purposes of this Act, sec. 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857), called on the President to submit a report to Congress by October 31, 1977, containing his recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States. Pursuant to such request, the President submitted Reorganization Plan No. 2 of 1977 on October 11, 1977, which would establish a new International Communication Agency by consolidating the functions of the State Department's Bureau of Educational and Cultural Affairs and USIA. Such reorganization plan became effective on April 1, 1978.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

³ 22 U.S.C. 1432.

⁴ 22 U.S.C. 1433.

⁵ Pursuant to sec. 7 of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency were transferred to the Director of the International Communication Agency. As now codified, these definitions refer to the “Director” and the “Agency” rather than the “Secretary” and the “Department”.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive

(2)⁵ “Department” means the Department of State.

(3) “Government agency” means any executive department, board, bureau, commission, or other agency of the Federal Government, or independent establishment, or any corporation wholly owned (either directly or through one or more corporations) by the United States.

TITLE II—INTERCHANGE OF PERSONS, KNOWLEDGE AND SKILLS

PERSONS

SEC. 201.⁶ * * * [Repealed—1961]

BOOKS AND MATERIALS

SEC. 202.⁷ The Secretary⁸ is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials.

INSTITUTIONS

SEC. 203.^{9,10} The Secretary⁸ is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Secretary⁸ shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States.

order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

⁶Sec. 201, which authorized the interchange of persons on a reciprocal basis between the United States and other countries, was repealed by sec. 111 of Public Law 87-256 (75 Stat. 538).

⁷22 U.S.C. 1447.

⁸Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

⁹22 U.S.C. 1448. This section has been repealed insofar as it related to schools, by Public Law 87-256 (75 Stat. 527).

¹⁰This section was referred to in sec. 104(j) of Public Law 83-480 (68 Stat. 454), as amended by Public Law 84-962 (70 Stat. 988).

TITLE III—ASSIGNMENT OF SPECIALISTS

PERSONS TO BE ASSIGNED

SEC. 301.¹¹ The Director of the United States Information Agency¹² is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any person¹³ in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Director¹² finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 302, or (3) such government shall have made an advance of funds, property, or services as provided in section 902. Nothing in this Act, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

STATUS AND ALLOWANCES

SEC. 302.¹⁴ Any person in the employ or service of the Government of the United States,¹⁵ while assigned for service to or in cooperation with another government under the authority of this Act, shall be considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.¹⁶ The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be

¹¹22 U.S.C. 1451.

¹²The reference to the Director of the United States Information Agency was inserted in lieu of a reference to the Secretary of State by sec. 304(a)(2) of Public Law 97-241 (96 Stat. 292). Previously, Reorganization Plan No. 2 of 1977, which established the International Communication Agency, stated that all functions vested in the Secretary of State by this Act were transferred to the Director of the International Communication Agency.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

¹³The word "person" was inserted in lieu of "citizen of the United States" by sec. 304(a)(1) of Public Law 97-241 (96 Stat. 292).

¹⁴22 U.S.C. 1452.

¹⁵The words "person in the employ or service of the Government of the United States" were inserted in lieu of "citizen of the United States" by sec. 302(a)(1) of Public Law 97-241 (96 Stat. 292).

¹⁶The reference to sec. 905 of the Foreign Service Act of 1980 was inserted in lieu of a reference to sec. 901(3) of the Foreign Service Act of 1946 (60 Stat. 990) by sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292).

considered as meeting all the requirements of section 5536 of title 5, United States Code.¹⁷

ACCEPTANCE OF OFFICE UNDER ANOTHER GOVERNMENT

SEC. 303.¹⁸ Any person in the employ or service of the Government of the United States,¹⁵ while assigned for service to or in cooperation with another government under authority of this Act may, at the discretion of his Government agency, with the concurrence of the Director of the United States Information Agency,¹² and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this Act: *Provided, however,* That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

TITLE IV—PARTICIPATION BY GOVERNMENT AGENCIES

GENERAL AUTHORITY

SEC. 401.¹⁹ The Secretary²⁰ is authorized, in carrying on any activity under the authority of this Act, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Secretary²⁰ shall use the services, facilities, or personnel of any Government agency for activities under authority of this Act, the Secretary²⁰ shall pay for such performance out of funds available to the Secretary²⁰ under this Act, either in advance, by reimbursement, or direct transfer. The Secretary²⁰ shall include in each report submitted to the Congress under section 1008 a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this Act, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance.

¹⁷The reference to 5 U.S.C. 5536 was inserted in lieu of a reference to sec. 1765 of the Revised Statutes by sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292).

¹⁸22 U.S.C. 1453.

¹⁹22 U.S.C. 1456.

²⁰Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

TECHNICAL AND OTHER SERVICES

SEC. 402.²¹ A Government agency, at the request of the Secretary,²⁰ may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Secretary²⁰ and to the head of the Government agency, when it is determined by the Secretary²⁰ that such services will contribute to the purposes of this Act. However, nothing in this Act shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

POLICY GOVERNING SERVICES

SEC. 403.²² In authorizing the performance of technical and other services under this title, it is the sense of the Congress (1) that the Secretary²⁰ shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qualified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this Act, a Government agency shall render engineering services related to public works only when the Secretary²⁰ shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under title III of this Act, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments.

²¹ 22 U.S.C. 1457.

²² 22 U.S.C. 1458.

TITLE V—DISSEMINATING INFORMATION ABOUT THE UNITED STATES ABROAD

GENERAL AUTHORIZATION

SEC. 501.²³ (a)²⁴ The Secretary²⁰ is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Subject to subsection (b), any²⁴ such information (other than “Problems of Communism” and the “English Teaching Forum”²⁵ which may be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State,²⁰ at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

(b)(1)²⁴ The Director of the United States Information Agency shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.

²³ 22 U.S.C. 1461.

²⁴ Popularly referred to as the Zorinsky amendment. Sec. 202 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 49), added designation “(a)”; struck out “Any” at the beginning of the second sentence, and inserted in lieu thereof “Subject to subsection (b), and”; and added a new subsection (b).

Previously, the second sentence of sec. 501 was amended by sec. 204 of Public Law 92-352 (86 Stat. 493). It formerly read:

“Any such press release or radio script, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, shall be made available to Members of Congress.”

See also sec. 202 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 972), which provided additional direction for the USIA. Entitled “Mission of the International Communication Agency” (since renamed the United States Information Agency), this provision is considered by the USIA as its “second mandate.”

²⁵ The reference to the “English Teaching Forum” was added by sec. 208 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 401).

Sec. 1333(a) of Public Law 105-277 (112 Stat. 2681-785) provided the following:

“SEC. 1333. APPLICATION OF CERTAIN LAWS.

“(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

“(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

“(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.”

(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.

(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

NOTE.—Notwithstanding the second sentence of section 501 [and after 1985, also notwithstanding sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 [22 U.S.C. 1461-1(a)]], certain films and artistic works have received Congressional authorization for distribution within the United States. The films or artistic works and the legislation which authorized their distribution include the following:

- a. "Echoes"—Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976.
- b. "Santa Fe"—Public Law 94-350 [S.3168, 90 Stat. 823], approved July 12, 1976.
- c. "The Numbers Start With the River"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- d. "The Copland Portrait"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- e. "200"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- f. "Rendezvous"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- g. "Century III—The Gift of Life"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- h. "Life, Liberty, and the Pursuit of Happiness" exhibit—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- i. "Hirshhorn Museum and Sculpture Garden"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.
- j. "Man in the Environment"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 and 849, approved August 17, 1977.
- k. "Young Filmmakers Bicentennial Film Series" films—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.
- l. "The Right to Dignity"—Sec. 207, Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved October 7, 1978.
- m. "Margaret Mead—Reflections"—Sec. 206, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.
- n. "Aspen"—Sec. 207, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.
- o. "Let Poland Be Poland"—Public Law 97-146 [H.J. Res. 382], 96 Stat. 3, approved January 30, 1982.
- p. "Montana: The People Speak" slide show—Public Law 97-159 [S. 2166], 96 Stat. 20, approved March 24, 1982.
- q. "Reflections: Samuel Eliott Morison"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.
- r. "And Now Miguel"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.
- s. "In Their Own Words"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.
- t. "Dumas Malone: A Journey with Mr. Jefferson"—Public Law 97-388 [S. 3073], 96 Stat. 1948, approved December 23, 1982.

- u. "Thanksgiving in Peshawar"—Sec. 216, Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983.
- v. "Hal David: Expressing a Feeling"—Sec. 212, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- w. "Afghanistan 1982; the Struggle for Freedom Continues"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- x. "We are Afghanistan"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- y. "Afghanistan: The Hidden War"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- z. "The March"—Public Law 99-369 [H.R. 4985], 100 Stat. 778, approved August 1, 1986.
- aa. Objects displayed at the U.S. Pavilion at the 86 Expo in Vancouver, British Columbia, Canada—Public Law 99-475 [H.R. 5522], 100 Stat. 1217, approved October 16, 1986.
- bb. "America the Way I See It"—Public Law 100-167 [H.R. 3428], 101 Stat. 910, approved November 17, 1987.²⁶
- cc. "A Tribute to Mickey Leland"—Public Law 101-200 [H.R. 3294], 103 Stat. 1794, approved December 6, 1989.
- dd. "Long Journey Home"—Public Law 101-246 [H.R. 3792], 104 Stat. 49, approved February 16, 1990.
- ee. The Photographic Works of Richard Saunders—to be made available to the Schomburg Center for Black Studies, New York, New York—Sec. 213, Public Law 102-138, [H.R. 1415], 105 Stat. 696, approved October 28, 1991.
- ff. "The Voice" [film] and "All of Our Yesterdays" [radio documentary]—Sec. 1, Public Law 102-454, [H.R. 5751], 106 Stat. 2262, approved October 23, 1992.
- gg. "Thomas Jefferson Paper Show" [USIA presentation], and "Crimes Against Humanity" [film]—Sec. 234, Public Law 103-236 [H.R. 2333], 108 Stat. 424, approved April 30, 1994.
- hh. "Fragile Ring of Life" [film]—Public Law 104-161 [H.R. 2070], 110 Stat. 1413, approved July 18, 1996.
- ii. Voice of America and Radio Marti multilingual computer readable text and voice recordings, to be made available to the Linguistic Data Consortium, University of Pennsylvania, terminates ten years after enactment—Public Law 104-269 [H.R. 3916], 110 Stat. 3300, approved October 9, 1996, amended by Public Law 106-309; 114 Stat. 1099.

POLICIES GOVERNING INFORMATION ACTIVITIES

SEC. 502.²⁷ In authorizing international information activities under this Act, it is the sense of the Congress (1) that the Secretary²⁰ shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this Act shall be construed to give the Department²⁰ a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

SEC. 503.²⁸ * * * [Repealed—1994]

²⁶The language of Public Law 100-167 was repeated as sec. 214 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376).

²⁷22 U.S.C. 1462.

²⁸Formerly at 22 U.S.C. 1463. Sec. 503, originally added by sec. 206 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), was repealed by sec. 315(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 445). The section stated principles for VOA broadcasts.

VOICE OF AMERICA/EUROPE

SEC. 504.²⁹ As part of its duties and programs under title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.), Voice of America/Europe shall—

- (1) target news and features in accordance with the findings and recommendations of the Young European Survey;
- (2) conduct periodic audience evaluations and measurements; and
- (3) promote and advertise Voice of America/Europe.

USIA SATELLITE AND TELEVISION

SEC. 505.³⁰ (a) IN GENERAL.—The Broadcasting Board of Governors³¹ is authorized to lease or otherwise acquire time on commercial or United States Government satellites for the purpose of transmitting materials and programs to posts and other users abroad.

(b) BROADCAST PRINCIPLES.—The Congress finds that the long-term interests of the United States are served by communicating directly with the peoples of the world by television. To be effective, the Broadcasting Board of Governors³² must win the attention and respect of viewers. These principles will therefore govern the television broadcasts of the United States International Television Service:³³

- (1) United States International Television Service³⁴ will serve as a consistently reliable and authoritative source of news. United States International Television Service³⁴ news will be accurate and objective.
- (2) United States International Television Service³⁴ will represent the United States, not any single segment of American society and will, therefore, present a balanced and comprehensive projection of significant American thought and institutions.
- (3) United States International Television Service³⁴ will present the policies of the United States clearly and effectively and will also present responsible discussions and opinion on these policies.

²⁹ 22 U.S.C. 1464. Sec. 504 was added by sec. 402 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331).

³⁰ 22 U.S.C. 1464a. Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 50), added sec. 505.

³¹ Sec. 1335(a)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors" at each place that it appeared in sec. 505.

³² Sec. 1335(a)(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors" at each place that it appeared in sec. 505.

³³ Sec. 1335(a)(1)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "Agency's television broadcasts (hereinafter in this section referred to as 'USIA-TV')", and inserted in lieu thereof "television broadcasts of the United States International Television Service".

³⁴ Sec. 1335(a)(1)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "USIA-TV" and inserted in lieu thereof "The United States International Television Service" in paras. (1), (2), and (3).

(c) PROGRAMS.—The Broadcasting Board of Governors³² is authorized to produce, acquire, or broadcast television programs, via satellite, only if such programs—

(1) are interactive, consisting of interviews among participants in different locales;

(2) cover news, public affairs, or other current events;

(3) cover official activities of government, Federal or State, including congressional proceedings and news briefings of any agency of the Executive branch; or

(4) are of an artistic or scientific character or are otherwise representative of American culture.

(d) COSTS.—When a comparable program produced by United States public or commercial broadcasters and producers is available at a cost which is equal to or less than the cost of production by the United States International Television Service,³⁵ the Broadcasting Board of Governors³² shall use such materials in preference to the United States International Television Service³⁵ produced materials.

(e) ALLOCATION OF FUNDS.—(1) Of the funds authorized to be appropriated to the Broadcasting Board of Governors³² not more than \$12,000,000 for the fiscal year 1990 and not more than \$12,480,000 for the fiscal year 1991 may be obligated or expended for the United States International Television Service.³⁵

(2) The Broadcasting Board of Governors³² shall prepare and submit to the Congress quarterly reports which contain a detailed explanation of expenditures for USIA-TV during the fiscal years 1990 and 1991. Such reports shall contain specific justification and supporting information pertaining to all programs, particularly those described in subsection (c)(4), that were produced in-house by USIA-TV. Each such report shall include a statement by the Broadcasting Board of Governors³² that, according to the best information available to the Broadcasting Board of Governors,³² no comparable United States commercially-produced or public television program is available at a cost which is equal to or less than the cost of production by USIA-TV.

(3)³⁶ Of the funds authorized to be appropriated to the Broadcasting Board of Governors,³² \$1,500,000 for the fiscal year 1990 and \$1,500,000 for the fiscal year 1991 shall be available only for the purchase or use of programs produced with grants from the Corporation for Public Broadcasting or produced by United States public broadcasters.

VOICE OF AMERICA HIRING PRACTICES

SEC. 506.³⁷ (a) PROHIBITION.—After the date of enactment of this section, the Voice of America shall not select candidates for employment who must be or are preapproved for employment at the Voice

³⁵Sec. 1335(a)(1)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “USIA-TV” and inserted in lieu thereof “the United States International Television Service” in subsecs. (d) and (e).

³⁶Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90), waived sec. 505(e)(3), as added by sec. 205 of that Act, effective on the date of enactment of that Act (February 16, 1990).

³⁷22 U.S.C. 1464b. Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 57), added sec. 506.

of America by a foreign government or an entity controlled by a foreign government.

(b) EXCEPTION.—The prohibition referred to in this section shall not apply to—

- (1) participants in the Voice of America's exchange programs; or
- (2) clerical, technical, or maintenance staff at Voice of America offices in foreign countries.

(c) REPORT.—If the Broadcasting Board of Governors³⁸ determines that the prohibition under subsection (a) would require the termination of a specific Voice of America foreign language service, then, not less than 90 days before the Board³⁹ begins to recruit such candidates, the Board⁴⁰ shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁴¹ of the House of Representatives a report concerning—

- (1) the number and location of speakers of the applicable foreign language who could be recruited by the Voice of America without violating this section; and
- (2) the efforts made by the Voice of America to recruit such individuals for employment.

TITLE VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

SEC. 601.⁴² There are hereby created two advisory commissions, (1) United States Advisory Commission on Information (hereinafter in this title referred to as the Commission on Information) and (2) United States Advisory Commission on Educational Exchange (hereinafter in this title referred to as the Commission on Educational Exchange)⁴³ to be constituted as provided in section 602. The Commissions shall formulate and recommend to the Secretary²⁰ policies and programs for the carrying out of this Act: *Provided, however,* That the commissions created by this section shall have no authority over the Board of Foreign Scholarships or the program created by Public Law 584 of the Seventy-ninth Congress, enacted August 1, 1946, or the United States National Commission for UNESCO.

³⁸ Sec. 1335(a)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

³⁹ Sec. 1335(a)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Agency" and inserted in lieu thereof "Board".

⁴⁰ Sec. 1335(a)(2)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director" and inserted in lieu thereof "Board".

⁴¹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁴² 22 U.S.C. 1466. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

⁴³ Sec. 8 of Reorganization Plan No. 2 of 1977 established the United States Advisory Commission on International Communication, Cultural and Educational Affairs, consolidated functions vested in these two commissions and transferred them to this new commission.

Subsequently, sec. 604 of this Act redesignated the United States Advisory Commission on International Communication, Cultural and Educational Affairs as the United States Advisory Commission on Public Diplomacy.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

MEMBERSHIP OF THE COMMISSION: GENERAL PROVISIONS

SEC. 602.⁴⁴ (a) Each Commission shall consist of five members, not more than three of whom shall be from any one political party. Members shall be appointed by the President, by and with the advice and consent of the Senate. No person holding any compensated Federal or State office shall be eligible for appointment.

(b) The members of the Commission on Information shall represent the public interest, and shall be selected from a cross section of professional, business, and public service backgrounds.

(c) The members of the Commission on Educational Exchange shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(d) The term of each member appointed under subsection (a) of this section shall be three years, except that the terms of office of such members first taking office on each Commission shall expire, as designated by the President at the time of appointment, two at the end of one year, two at the end of two years, and one at the end of three years from the date of the enactment of this Act. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

(e) The President shall designate a chairman for each Commission from among members of the Commission.

(f) The members of the Commissions shall receive no compensation for their services as such members but shall be entitled to reimbursement for travel and subsistence in connection with attendance of meetings of the Commissions away from their places of residences, as provided in subsection (6) of section 801 of this Act.

(g) The Commissions are authorized to adopt such rules and regulations as they may deem necessary to carry out the authority conferred upon them by this title.

(h) The Department²⁰ is authorized to provide the necessary secretarial and clerical assistance for the Commissions.

RECOMMENDATIONS AND REPORTS

SEC. 603.⁴⁵ The Commissions shall meet not less frequently than once each month during the first six months after their establishment, and thereafter at such intervals as the Commissions find advisable, and shall transmit to the Secretary²⁰ a quarterly report, and to the Congress a semiannual report of all programs and activities carried on under the authority of this Act, including appraisals, where feasible, as to the effectiveness of the several programs, and such recommendations as shall have been made by the Commissions to the Secretary²⁰ for effectuating the purposes and

⁴⁴ 22 U.S.C. 1467. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

⁴⁵ 22 U.S.C. 1468. This section has been repealed insofar as it related to the United States Advisory Commission on Educational Exchange, by Public Law 87-256 (75 Stat. 527).

objectives of this Act and the action taken to carry out such recommendations.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

SEC. 604.⁴⁶ (a) ESTABLISHMENT.—(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy.

(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.

(3) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

⁴⁶ 22 U.S.C. 1469. Sec. 1334(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) repealed sec. 604. Sec. 404 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), however, restored the Commission through October 1, 2001. Sec. 404 provided as follows:

“SEC. 404. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

“(a) RESTORATION OF ADVISORY COMMISSION.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended to read as follows:

“SEC. 1334. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

“The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law until October 1, 2001.”

“(b) RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

“(c) REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.—

“(1) REENACTMENT.—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.

“(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

“(d) CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

“(e) REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.”

Subsequently, sec. 604 was reenacted pursuant to sec. 407(c) of the Department of State Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790), subsecs. (c) and (d) of which provided the following:

“(c) The provisions of law repealed by section 404(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 404(c) of division A, of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-446) are hereby reenacted into law.

(d) Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.”

Sec. 604 was added originally by sec. 203(f) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399), and subsequently amended and restated by sec. 213 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376), and by sec. 206 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 51).

(4) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

(5) The President shall designate a member to chair the Commission.

(b) STAFF.—The Commission shall have a staff director who shall be appointed by the chairperson of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the chairperson of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the chairperson considers necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(c) DUTIES AND RESPONSIBILITIES.—(1) The Commission shall formulate and recommend to the Director of the United States Information Agency, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency.

(2) The commission shall submit to the Congress, the President, the Secretary of State, and the Director of the United States Information Agency annual reports on programs and activities carried out by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations.

(3) The Commission may also submit such other reports to the Congress as it considers appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency.

(4) The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and non-political character of the educational and cultural exchange activities vested in the Director of the United States Information Agency have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(d) LIMITATION ON AUTHORITY.—The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.

TITLE VII—APPROPRIATIONS

SEC. 701.⁴⁷ * * * [Repealed—1998]

TRANSFER OF FUNDS

SEC. 702.⁴⁸ The Secretary²⁰ shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this Act, any part of any appropriations available to the Department²⁰ for carrying out the purposes of this Act, for direct expenditure or as a working fund, and any such expenditures may be made under the specific authority contained in this Act or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this Act.

AUTHORIZATION FOR GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY

SEC. 703.⁴⁹ There are authorized to be appropriated to the Secretary of State \$38,520,000 for fiscal year 1973 to provide grants, under such terms and conditions as the Secretary considers appropriate, to Radio Free Europe and Radio Liberty. There are further authorized to be appropriated in fiscal year 1973 not to exceed \$1,150,000 for nondiscretionary costs. Except for funds appropriated pursuant to this section, no funds appropriated after the date of this Act may be made available to or for the use of Radio Free Europe or Radio Liberty in fiscal year 1973.

SEC. 704.⁵⁰ * * * [Repealed—1998]

SEC. 705.⁵¹ The Department of State⁵¹ may award grants for overseas public diplomacy programs⁵² only if the Committee on Foreign Affairs⁵³ of the House of Representatives and the Commit-

⁴⁷ Formerly at 22 U.S.C. 1476. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 701, as amended, addressed prior authorization by Congress. Sec. 2419 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-255; 112 Stat. 2681-835) struck out sec. 701(f)(4) of this section, already repealed by the above cited Act.

⁴⁸ 22 U.S.C. 1477.

⁴⁹ 22 U.S.C. 1477a. Sec. 703 was added by Public Law 92-264 (86 Stat. 114); further amended when the second sentence was added by Public Law 93-59 on July 6, 1973.

⁵⁰ Formerly at 22 U.S.C. 1477b. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 704 was originally added by sec. 204(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400), and pertained to nondiscretionary personnel costs and currency fluctuations.

⁵¹ 22 U.S.C. 1477c. Sec. 1335(a)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out subsecs. (a) and (b); and replaced "(b) In addition, the United States Information Agency" with "The Department of State". Originally, Sec. 214 of Public Law 98-164 (97 Stat. 1035) added former subsecs. (a) and (b), and sec. 202(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1372) added former subsec. (c).

⁵² Sec. 1335(a)(3)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "program grants" and inserted in lieu thereof "grants for overseas public diplomacy programs". Sec. 202(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1372), struck out "for the fiscal years 1986 and 1987" at this point. That phrase was inserted in lieu of the original which read "for the fiscal years 1984 and 1985" by sec. 214 of Public Law 99-93 (99 Stat. 405).

⁵³ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

tee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed grant.

(c) Funds appropriated for the United States Information Agency may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

TITLE VIII—ADMINISTRATIVE PROCEDURES

THE SECRETARY⁵⁴

SEC. 801.⁵⁵ In carrying out the purposes of this Act, the Secretary⁵⁴ is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In⁵⁶ carrying out title II of this Act,⁵⁷ to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3)⁵⁸ whenever necessary in carrying out title V of this Act, to purchase, rent, construct, improve, maintain, and operate facilities for radio and television⁵⁹ transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed forty years,⁶⁰ or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and any such real property or interests therein which are outside the United States may be acquired without regard to section 355 of the Revised Statutes of the United States (40 U.S.C. 255) if the sufficiency of the title to such real property or interests therein is approved by the Director of the United States Information Agency;²⁰

⁵⁴Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

⁵⁵22 U.S.C. 1471.

⁵⁶"In" in original; should read "in".

⁵⁷The words "within the limitation of such appropriations as the Congress may provide," which previously appeared at this point, were struck out by sec. 204(a) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400).

⁵⁸Paragraph (3) was amended and restated by sec. 203(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399). The substantive change made by this amendment involved the addition of the words beginning with "and the alteration, improvement * * *" through the end of the paragraph.

⁵⁹Sec. 203 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), inserted "and television" after "radio".

⁶⁰Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331), inserted "forty years" in lieu of "twenty-five years". Sec. 217 of Public Law 98-164 (97 Stat. 1036) had previously substituted twenty-five years in lieu of ten years.

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

(5)⁶¹ to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act;⁶²

(6)⁶³ to create with the approval of the Commission on Information and the Commission on Educational Exchange,⁶⁴ such advisory committees as the Secretary⁵⁴ may decide to be of assistance in formulating his policies for carrying out the purposes of this Act. No Committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73 b-2); and⁶²

(7)⁶² notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for overseas public diplomacy⁶⁵ facilities not physically located together with other⁶⁶ Department of State facilities abroad.

GOVERNMENT AGENCIES

SEC. 802.⁶⁷ (a) In carrying on activities which further the purposes of this Act, subject to approval of such activities by the Secretary,⁵⁴ the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 3741 of the Revised Statutes (41 U.S.C. 22);

(3) under such regulations as the Secretary⁵⁴ may prescribe, to pay the transportation expenses, and not to exceed \$10 per

⁶¹ Paragraph (5) was amended and restated by sec. 203(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398). Formerly, par. (5) also provided for the employment of aliens within the United States for positions relating to translation or narration of colloquial speech in foreign languages when suitably qualified U.S. citizens were not available.

⁶² Sec. 222 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 421), amended sec. 801 by striking “and” at the end of para. (5); striking a period at the end of para. (6), and inserting instead “; and”; and adding a new para. (7).

⁶³ Para. (6) was amended by sec. 11 of Public Law 87-139 (75 Stat. 341).

⁶⁴ Pursuant to sec. 8 of Reorganization Plan No. 2 of 1977, the functions vested in these two commissions were transferred to a newly created United States Advisory Commission on International Communication, Cultural and Educational Affairs (in 1979, such new Commission was redesignated as the United States Advisory Commission on Public Diplomacy).

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

⁶⁵ Sec. 1335(a)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “Agency” and inserted in lieu thereof “overseas public diplomacy”.

⁶⁶ Sec. 1335(a)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) inserted “other” after “together with”.

⁶⁷ 22 U.S.C. 1472. Sec. 302(b) of Public Law 97-241 (96 Stat. 292) added the subsection designation “(a)” and a new subsec. (b).

diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Act of 1926, as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b)⁶⁷ (1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(A) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(B) the Director of the United States Information Agency determines that—

(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(iii) such method of contracting will not inhibit small business participation.

(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

(4)⁶⁸ (A) Notwithstanding the other provisions of this subsection, the United States Information Agency is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs.

(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

MAXIMUM USE OF EXISTING GOVERNMENT PROPERTY AND FACILITIES

SEC. 803.⁶⁹ In carrying on activities under this Act which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities.

⁶⁸Sec. 225 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), added para. (4).

⁶⁹22 U.S.C. 1473.

BASIC AUTHORITY

SEC. 804.⁷⁰ In carrying out the provisions of this Act, the Secretary,⁵⁴ or any Government agency authorized to administer such provisions, may—

(1)⁷¹ employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available when job vacancies occur,⁷² and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the Director of the United States Information Agency⁷³ and the Attorney General;

(2) pay travel expenses of aliens employed abroad for service in the United States and their dependents to and from the United States;

(3) incur expenses for entertainment within the United States within such amounts as may be provided in appropriations Acts;

(4) obtain insurance on official motor vehicles operated by the Secretary⁷⁴ or such agency in foreign countries, and pay the expenses incident thereto;

(5) notwithstanding the provisions of section 2680(k) of title 28, United States Code, pay tort claims in the manner authorized in the first paragraph of section 2672 of such title, when

⁷⁰22 U.S.C. 1474. Sec. 804 was added by Public Law 92-352 (86 Stat. 389).

Sec. 2418 of the Foreign Relations Authorization Act, 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-835; 22 U.S.C. 1474 note), provided the following:

"The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements."

Sec. 846 of Public Law 105-244 (112 Stat. 1822) enacted an identical provision.

⁷¹Paragraph (1) was amended and restated by sec. 203(b)(2) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398). Formerly, par. (1) also included a requirement that such aliens must be investigated pursuant to procedures established by the Secretary or the agency and the Attorney General before they could be employed.

⁷²Sec. 207 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53), added "when job vacancies occur".

⁷³"United States Information Agency" was substituted for "International Communication Agency" pursuant to sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: "Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a)."

⁷⁴Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

such claims arise in foreign countries in connection with operations conducted abroad under this Act;

(6) employ aliens by contract for services abroad;

(7) provide ice and drinking water abroad;

(8) pay excise taxes on negotiable instruments abroad;

(9)⁷⁵ pay to or for individuals, not United States Government employees, participating in activities conducted under this Act, the costs of emergency medical expenses, preparation and transport to their former homes of the remains of such participants or their dependents who die while away from their homes during such participation, and health and accident insurance premiums for participants or health and accident benefits for participants by means of a program of self-insurance;

(10) rent or lease, for periods not exceeding ten years,⁷⁶ office buildings, grounds, and living quarters abroad for employees carrying out this Act, and make payments therefor in advance;

(11) maintain, improve, and repair properties used for information activities in foreign countries;

(12) furnish fuel and utilities for Government-owned or leased property abroad;

(13) pay travel expenses of employees attending official international conferences, without regard to sections 5701-5708 of title 5, United States Code, and regulations issued thereunder, but at rates not in excess of comparable allowances approved for such conferences by the Secretary;

(14)⁷⁷ purchase uniforms;

(15)⁷⁸ hire passenger motor vehicles;

(16)⁷⁸ purchase passenger motor vehicles for use abroad, and right-hand drive and security⁷⁹ vehicles may be so purchased without regard to any maximum price limitation established by law;

(17)⁷⁸ procure services of experts and consultants in accordance with section 3109 of title 5 of the United States Code;

(18)⁷⁸ make advances of funds;

(19)⁷⁸ notwithstanding section 5946 of title 5 of the United States Code, pay dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others;⁸⁰

(20)⁸¹ subject to the availability of appropriated funds, purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance

⁷⁵Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), amended and restated par. (9).

⁷⁶This period was changed from five years to ten years by sec. 204(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400).

⁷⁷Paragraph (14) was added by sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350); and further amended when sec. 204(b)(3) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400), struck out the words "when funds are appropriated therefor" at the end of the paragraph.

⁷⁸Paragraphs (15) through (19) were added by sec. 204(b)(4) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400).

⁷⁹The words "and security" were added by sec. 302(c) of Public Law 97-241 (96 Stat. 293).

⁸⁰Sec. 204 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), struck out "and" at the end of par. (19); ended par. (20) with a semicolon; and added new pars. (21), (22), and (23).

⁸¹Paragraph (20) was added by sec. 304(d) of Public Law 97-241 (96 Stat. 293).

coverage for the protection of interests in intellectual property;⁸⁰

(21)⁸⁰ incur expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.);

(22)⁸⁰ furnish living quarters as authorized by section 5912 of title 5, United States Code; and

(23)⁸⁰ provide allowances as authorized by sections 5921 through 5928 of title 5, United States Code.”.

TRAVEL EXPENSES

SEC. 805.⁸² Appropriated funds made available for any fiscal year to the Secretary or any Government agency, to carry out the provisions of this Act, for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel, shall be available for all such expenses in connection with travel or transportation which begins in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

REPLACEMENT OF PASSENGER MOTOR VEHICLES

SEC. 806.⁸³ The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall be⁸⁴ available without fiscal year limitation for replacement of an equal number of such vehicles in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949.

SEC. 807.⁸⁵ * * * [Repealed—1998]

SEC. 808.⁸⁶ * * * [Repealed—1998]

COMPENSATION FOR DISABILITY OR DEATH

SEC. 809.⁸⁷ A cultural exchange, international fair or exposition, or other exhibit or demonstration of United States economic accomplishments and cultural attainments, provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered a “public work” as that term is defined in the first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the “Defense Base Act”).

⁸² 22 U.S.C. 1475. Sec. 805 was added by sec. 202 of Public Law 92-352 (86 Stat. 494).

⁸³ 22 U.S.C. 1475a. Sec. 806 was added by sec. 204 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

⁸⁴ The words “shall be” were inserted in lieu of “are authorized to be made” by sec. 204(c) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400).

⁸⁵ Formerly at 22 U.S.C. 1475b. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 807 was originally added by sec. 204(c) of Public Law 95-426 (92 Stat. 974) and pertained to the seal of the United States Information Agency.

⁸⁶ Formerly at 22 U.S.C. 1475c. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 808 was originally added by sec. 304(e) of Public Law 97-241 (96 Stat. 293), and pertained to acting associate directors.

⁸⁷ 22 U.S.C. 1475d. Sec. 809 was added by sec. 304(e) of Public Law 97-241 (96 Stat. 293).

USE OF ENGLISH-TEACHING PROGRAM FEES

SEC. 810.⁸⁸ (a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

(b) FEES AND RECEIPTS DESCRIBED.—The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

- (1) English-teaching and library services,
 - (2) educational advising and counseling,
 - (3) Exchange Visitor Program Services,
 - (4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,
 - (5) cooperating international organizations, and
 - (6) Agency-produced publications,
 - (7) an amount not to exceed \$100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Education and Cultural Exchange Act of 1961.
- SEC. 811.⁸⁹ * * * [Repealed—1998]

OVERSEAS PUBLIC DIPLOMACY POSTS AND PERSONNEL OVERSEAS⁹⁰

SEC. 812.⁹¹ (a) LIMITATION.—Except as provided under this section no funds authorized to be appropriated to the Department of State⁹² may be used to pay any expense associated with the closing of any overseas public diplomacy post⁹³ abroad.

⁸⁸ 22 U.S.C. 1475e. Sec. 2412 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832) amended and restated sec. 810. Sec. 810 was originally added by sec. 304(e) of Public Law 97-241 (96 Stat. 293), and was subsequently amended and restated by sec. 203 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1373), and by sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53). It read as follows:

“SEC. 810 (a) Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees received by or for the use of the United States Information Agency from or in connection with English-teaching and library services, and Agency-produced publications, and not to exceed \$100,000 of payments from motion picture and television programs, produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 is authorized to be credited each fiscal year to the appropriate appropriation of the United States Information Agency to such extent as may be provided in advance in an appropriation Act.”

⁸⁹ Formerly at 22 U.S.C. 1475f. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 811 was originally added by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53), and pertained to debt collection.

⁹⁰ Sec. 1335(a)(5)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “USIA” and inserted in lieu thereof “OVERSEAS PUBLIC DIPLOMACY” in the section catchline.

⁹¹ 22 U.S.C. 1475g. Sec. 206(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 693), added sec. 812.

⁹² Sec. 1335(a)(5)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “United States Information Agency” and inserted in lieu thereof “Department of State”.

⁹³ Sec. 1335(a)(5)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “United States Information Agency post” and inserted in lieu thereof “overseas public diplomacy post” throughout sec. 812.

(b) NOTIFICATION.—Not less than 45 days before the closing of any overseas public diplomacy post⁹³ abroad the Secretary of State⁹⁴ shall notify the Committee on Foreign Affairs⁹⁵ of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) EXCEPTIONS.—This section shall not apply to any overseas public diplomacy post⁹³ closed—

(1) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located; or

(2) where there is a real and present threat to United States diplomats in the city where the post is located and where a travel advisory warning against travel by United States citizens to the city has been issued by the Department of State.

TITLE IX—FUNDS PROVIDED BY OTHER SOURCES

REIMBURSEMENT

SEC. 901.⁹⁶ The Secretary⁷⁴ shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts.

ADVANCE OF FUNDS

SEC. 902.⁹⁷ If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this Act, the Secretary⁷⁴ is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this Act. Any unexpended balance of the special deposit account and other property received, under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property.

TITLE X—MISCELLANEOUS

LOYALTY CHECK OF PERSONNEL

SEC. 1001.⁹⁸ * * * [Repealed—1979]

⁹⁴Sec. 1335(a)(5)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Secretary of State".

⁹⁵Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁹⁶22 U.S.C. 1478.

⁹⁷22 U.S.C. 1479.

⁹⁸Sec. 1001, which concerned loyalty checks for personnel, was repealed by sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398).

DELEGATION OF AUTHORITY

SEC. 1002.⁹⁹ The Secretary⁷⁴ may delegate to such officers of the Government as the Secretary⁷⁴ determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act.

RESTRICTED INFORMATION

SEC. 1003.¹⁰⁰ Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure (1) is prohibited by any other law of the United States, or (2) is inconsistent with the security of the United States.

REPEAL OF ACT OF MAY 25, 1938, AS AMENDED

SEC. 1004. (a) The Act of May 25, 1938, entitled "An Act authorizing the temporary detail of United States employees, possessing special qualifications, to governments of American Republics and the Philippines, and for other purposes," as amended (52 Stat. 442; 53 Stat. 652), is hereby repealed.

(b) Existing Executive orders and regulations pertaining to the administration of such Act of May 25, 1938, as amended, shall remain in effect until superseded by regulations prescribed under the provisions of this Act.

(c) Any reference in the Foreign Service Act of 1946 (60 Stat. 999), or in any other law, to provisions of such Act of May 25, 1938, as amended, shall be construed to be applicable to the appropriate provisions of titles III and IX of this Act.

UTILIZATION OF PRIVATE AGENCIES

SEC. 1005.¹⁰¹ In carrying out the provisions of this Act it shall be the duty of the Secretary⁷⁴ to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary⁷⁴ shall encourage participation in carrying out the purposes of this Act by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

TERMINATION PURSUANT TO CONCURRENT RESOLUTION OF CONGRESS

SEC. 1006. The authority granted under this Act shall terminate whenever such termination is directed by concurrent resolution of the two Houses of the Congress.

⁹⁹ 22 U.S.C. 1435.

¹⁰⁰ 22 U.S.C. 1436.

¹⁰¹ 22 U.S.C. 1437.

VETERANS' PREFERENCE ACT

SEC. 1007.¹⁰² No provision of this Act shall be construed to modify or to repeal the provisions of the Veterans' Preference Act of 1944.

REPORTS TO CONGRESS

SEC. 1008.¹⁰³ * * * [Repealed—1980]

REGULATORY PROVISIONS TO APPLY TO ALL INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL EXCHANGES OF STATE DEPARTMENT

SEC. 1009.¹⁰⁴ * * * [Repealed—1998]

SEPARABILITY OF PROVISIONS

SEC. 1010. If any provision of this Act or the application of any such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

INFORMATIONAL MEDIA GUARANTIES

SEC. 1011.¹⁰⁵ (a)¹⁰⁶ The Director of the United States Information Agency may make guaranties, in accordance with the provisions of subsection (b) of section 413 of the Mutual Security Act of 1954,¹⁰⁷ of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided*, That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in sections 413(b)(4)(A) and 413(b)(4)(G) of the Mutual Security Act of 1954,¹⁰⁷ as amended.

(b)¹⁰⁸ The Director is authorized to assume the obligation of not to exceed \$28,000,000 of the notes authorized to be issued pursuant to subsection 111(c)(2) of the Economic Cooperation Act of 1948, as amended (22 U.S.C. 1509(c)(2)), together with the interest accrued and unpaid thereon, and to obtain advances from time to time from the Secretary of the Treasury up to such amount, less amounts previously advanced on such notes, as provided for in said notes. Such

¹⁰² 22 U.S.C. 1438.

¹⁰³ Sec. 1008, which had required an annual report from the Secretary to Congress on expenditures and activities carried out under this Act, was repealed by sec. 117 of Public Law 96-470 (94 Stat. 2240).

¹⁰⁴ Formerly at 22 U.S.C. 1440. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Previously, sec. 1009 was repealed insofar as it related to educational exchange activities, by sec. 111(a)(2) of Public Law 87-256 (75 Stat. 538).

¹⁰⁵ 22 U.S.C. 1442.

¹⁰⁶ This subsection was added by sec. 544 of the Mutual Security Act of 1954 (68 Stat. 862). The proviso was added by sec. 701(c) of the Mutual Security Act of 1959 (73 Stat. 257).

¹⁰⁷ Sec. 413 of the Mutual Security Act of 1954, which related to the encouragement of free enterprise and private participation, was repealed by sec. 642(a)(2) of the Foreign Assistance Act of 1961 (75 Stat. 460). See sec. 601 of such Act for similar language.

¹⁰⁸ Subsecs. (b) through (g) were added by sec. 11(g) of the Mutual Security Act of 1956 (70 Stat. 563).

advances shall be deposited in a special account in the Treasury available for payments under informational media guaranties.

(c)¹⁰⁸ The Director is authorized to make informational media guaranties without regard to the limitations of time contained in subsection 413(b)(4) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)), but the total of such guaranties outstanding at any one time shall not exceed the sum of the face amount of the notes assumed by the Director less the amounts previously advanced on such notes by the Secretary of the Treasury plus the amount of the funds in the special account referred to in subsection (b).

(d)¹⁰⁸ Foreign currencies available after June 30, 1955, from conversions made pursuant to the obligation of informational media guaranties may be sold, in accordance with Treasury Department regulations, for dollars which shall be deposited in the special account and shall be available for payments under new guaranties. Such currencies shall be available, as may be provided for by the Congress in appropriation Acts, for use of educational, scientific, and cultural purposes which are in the national interest of the United States, and for such other purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive.

(e)¹⁰⁸ Notwithstanding the provisions of subparagraph 413(b)(4)(E) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)(E)), (1) fees collected for the issuance of informational media guaranties shall be deposited in the special account and shall be available for payments under informational media guaranties; and (2) the Director may require the payment of a minimum charge of up to fifty dollars for issuance of guaranty contracts, or amendments thereto.

(f)¹⁰⁸ The Director is further authorized, under such terms as he may prescribe, to make advance payments under informational media guaranties: *Provided*, That currencies receivable from holders of such guaranties on account of such advance payments shall be paid to the United States within nine months from the date of the advance payment and that appropriate security to assure such payments is required before any advance payment is made.

(g)¹⁰⁸ As soon as feasible after the enactment of this subsection, all assets, liabilities, income, expenses, and charges of whatever kind pertaining to informational media guaranties, including any charges against the authority to issue notes provided in section 111(c)(2) of the Economic Cooperation Act of 1948, as amended, cumulative from the enactment of that Act, shall be accounted for separately from other guaranties issued pursuant to subsection 413(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)): *Provided*, That there shall be transferred from the special account established pursuant to subsection (b), into the account available for payments under guaranties other than informational media guaranties, an amount equal to the total of the fees received for the issuance of guaranties other than informational media guaranties, and used to make payments under informational media guaranties.

(h)¹⁰⁹ (1) There is authorized to be appropriated annually an amount to restore in whole or in part any realized impairment to the capital used in carrying on the authority to make informational media guaranties, as provided in subsection (c), through the end of the last completed fiscal year.

(2) Such impairment shall consist of the amount by which the losses incurred and interest accrued on notes exceed the revenue earned and any previous appropriations made for the restoration of impairment. Losses shall include the dollar losses on foreign currencies sold, and the dollar cost of foreign currencies which (a) the Secretary of the Treasury, after consultation with the Director, has determined to be unavailable for, in excess of, requirements of the United States, or (b) have been transferred to other accounts without reimbursement to the special account.

(3) Dollars appropriated pursuant to this section shall be applied to the payment of interest and in satisfaction of notes issued or assumed hereunder, and to the extent of such application to the principal of the notes, the Director is authorized to issue notes to the Secretary of the Treasury which will bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the guaranties. The currencies determined to be unavailable for, or in excess of requirements of the United States as provided above shall be transferred to the Secretary of the Treasury to be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts.

(4)¹¹⁰ Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.

SEC. 1012.¹¹² NATIONAL SECURITY MEASURES.

(a) RESTRICTION.—In coordination with other appropriate executive branch officials, the Secretary of State shall take all appropriate steps to—

(1) prevent any agent of a foreign power from participating in educational and cultural exchange programs under this Act;

(2) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of missiles or weapons of mass destruction is a participant in any program of educational or cultural exchange under this Act if such person is employed by, or attached to, an entity within a country that has been identified by any element of the United States intelligence community (as defined by section 3(4) of the National Security Act of 1947) within the previous 5 years as having been involved in the proliferation of missiles or weapons of mass destruction; and

¹⁰⁹ Subsec. (h) was added by sec. 502(i) of the Mutual Security Act of 1958 (72 Stat. 274).

¹¹⁰ Paragraph (4) was added by sec. 304(f) of Public Law 97-241 (96 Stat. 293).

¹¹² 22 U.S.C. 1442a. Sec. 403 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added sec. 1012.

(3) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of chemical or biological weapons for offensive purposes is a participant in any program of educational or cultural exchange under this Act.

(b) DEFINITIONS.—

(1) The term “appropriate executive branch officials” means officials from the elements of the United States Government listed pursuant to section 101 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272).

(2) The term “agent of a foreign power” has the same meaning as set forth in section 101(b)(1)(B) and (b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801), and does not include any person who acts in the capacity defined under section 101(b)(1)(A) of such Act.

b. Voice of America—Availability of Africa Materials

Partial text of Public Law 106-309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000

AN ACT To establish a program to provide assistance for programs of credit and other financial services for microenterprises in developing countries, and for other purposes.

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

* * * * *

TITLE IV—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 406. AVAILABILITY OF VOA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

Section 1(b) of Public Law 104-269 (110 Stat. 3300) is amended by striking “5 years” and inserting “10 years”.¹

SEC. 407. AVAILABILITY OF CERTAIN MATERIALS OF THE VOICE OF AMERICA.

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—Subject to the provisions of this section, the Broadcasting Board of Governors (in this section referred to as the “Board”) is authorized to make available to the Institute for Media Development (in this section referred to as the “Institute”), at the request of the Institute, previously broadcast audio and video materials produced by the Africa Division of the Voice of America.

(2) **DEPOSIT OF MATERIALS.**—Upon the request of the Institute and the approval of the Board, materials made available under paragraph (1) may be deposited with the University of California, Los Angeles, or such other appropriate institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) that is approved by the Board for such purpose.

(3) **SUPERSEDES EXISTING LAW.**—Materials made available under paragraph (1) may be provided notwithstanding section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) and section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a).

(b) **LIMITATIONS.**—

¹Public Law 104-269 provides for Voice of America and Radio Marti multilingual computer readable text and voice recordings to be made available to the Linguistic Data Consortium of the University of Pennsylvania, effective October 9, 1996.

(1) AUTHORIZED PURPOSES.—Materials made available under this section shall be used only for academic and research purposes and may not be used for public or commercial broadcast purposes.

(2) PRIOR AGREEMENT REQUIRED.—Before making available materials under subsection (a)(1), the Board shall enter into an agreement with the Institute providing for—

(A) reimbursement of the Board for any expenses involved in making such materials available;

(B) the establishment of guidelines by the Institute for the archiving and use of the materials to ensure that copyrighted works contained in those materials will not be used in a manner that would violate the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(C) the indemnification of the United States by the Institute in the event that any use of the materials results in violation of the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(D) the authority of the Board to terminate the agreement if the provisions of paragraph (1) are violated; and

(E) any other terms and conditions relating to the materials that the Board considers appropriate.

(c) CREDITING OF REIMBURSEMENTS TO BOARD APPROPRIATIONS ACCOUNT.—Any reimbursement of the Board under subsection (b) shall be deposited as an offsetting collection to the currently applicable appropriation account of the Board.

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall cease to have effect on the date that is 5 years after the date of the enactment of this Act.

* * * * *

c. United States Informational, Educational, and Cultural Programs Authorization, Fiscal Years 2000 and 2001

Title IV of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 [H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113], 113 Stat. 1536, approved November 29, 2000

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

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

* * * * *

TITLE IV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

Subtitle A—Authorities and Activities

SEC. 401. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) DESIGNATION OF NGAWANG CHOEPHEL EXCHANGE PROGRAMS.—Section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319) is amended by inserting after the first sentence the following: “Exchange programs under this subsection shall be known as the ‘Ngawang ChoepHEL Exchange Programs’.”

(b) SCHOLARSHIPS FOR TIBETANS AND BURMESE.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended by striking “for the fiscal year 1999” and inserting “for the fiscal year 2000”.

(c) SCHOLARSHIPS FOR PRESERVATION OF TIBET’S CULTURE, LANGUAGE, AND RELIGION.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is further amended by striking “Tibet,” and inserting “Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion),”.

SEC. 402. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

Section 102 of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2452 note) is amended to read as follows: * * *

SEC. 403. NATIONAL SECURITY MEASURES.

The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended by adding after section 1011 the following new section: * * *¹

SEC. 404. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) RESTORATION OF ADVISORY COMMISSION.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended to read as follows:

“SEC. 1334. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

“The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operated under such provisions of law until October 1, 2001.”.

(b)² RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

(c) REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.—

(1) REENACTMENT.—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.

(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

(d)² CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

(e)² REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.

SEC. 405. ROYAL ULSTER CONSTABULARY TRAINING.

(a) TRAINING FOR THE ROYAL ULSTER CONSTABULARY.—No funds authorized to be appropriated by this or any other Act may be used to support any training or exchange program conducted by the Federal Bureau of Investigation or any other Federal law enforcement agency for the Royal Ulster Constabulary (in this section referred to as the “RUC”) or RUC members until the President submits to

¹Sec. 403 added a new sec. 1012 to the USIEE Act of 1948 (22 U.S.C. 1442a).

²22 U.S.C. 1469 note.

the appropriate congressional committees the report required by subsection (b) and the certification described in subsection (c)(1).

(b) REPORT ON PAST TRAINING PROGRAMS.—The President shall report on training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the RUC or RUC members during fiscal years 1994 through 1999. Such report shall include—

(1) the number of training or exchange programs conducted during the period of the report;

(2) the number and rank of the RUC members who participated in such training or exchange programs in each fiscal year;

(3) the duration and location of such training or exchange programs; and

(4) a detailed description of the curriculum of the training or exchange programs.

(c) CERTIFICATION REGARDING FUTURE TRAINING ACTIVITIES.—

(1) IN GENERAL.—The certification described in this subsection is a certification by the President that—

(A) training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the RUC or RUC members are necessary to—

(i) improve the professionalism of policing in Northern Ireland; and

(ii) advance the peace process in Northern Ireland;

(B) such programs will include in the curriculum a significant human rights component;

(C) vetting procedures have been established in the Departments of State and Justice, and any other appropriate Federal agency, to ensure that training or exchange programs do not include RUC members who there are substantial grounds for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland; and

(D) the governments of the United Kingdom and the Republic of Ireland are committed to assisting in the full implementation of the recommendations contained in the Patten Commission report issued September 9, 1999.

(2) FISCAL YEAR 2001 APPLICATION.—The President shall make an additional certification under paragraph (1) before any Federal law enforcement agency conducts training for the RUC or RUC members in fiscal year 2001.

(3) APPLICATION TO SUCCESSOR ORGANIZATIONS.—The provisions of this subsection shall apply to any successor organization of the RUC.

Subtitle B—Russian and Ukrainian Business Management Education**SEC. 421.³ PURPOSE.**

The purpose of this subtitle is to establish a training program in Russia and Ukraine for nationals of those countries to obtain skills in business administration, accounting, and marketing, with special emphasis on instruction in business ethics and in the basic terminology, techniques, and practices of those disciplines, to achieve international standards of quality, transparency, and competitiveness.

SEC. 422.³ DEFINITIONS.

In this subtitle:

(1) **DISTANCE LEARNING.**—The term “distance learning” means training through computers, interactive videos, teleconferencing, and videoconferencing between and among students and teachers.

(2) **ELIGIBLE ENTERPRISE.**—The term “eligible enterprise” means—

(A) in the case of Russia—

(i) a business concern operating in Russia that employs Russian nationals in Russia; or

(ii) a private enterprise that is being formed or operated by former officers of the Russian armed forces in Russia; and

(B) in the case of Ukraine—

(i) a business concern operating in Ukraine that employs Ukrainian nationals in Ukraine; or

(ii) a private enterprise that is being formed or operated by former officers of the Ukrainian armed forces in Ukraine.

(3) **ELIGIBLE NATIONAL.**—The term “eligible national” means the employee of an eligible enterprise who is employed in the program country.

(4) **PROGRAM.**—The term “program” means the program of technical assistance established under section 423.

(5) **PROGRAM COUNTRY.**—The term “program country” means—

(A) Russia in the case of any eligible enterprise operating in Russia that receives technical assistance under the program; or

(B) Ukraine in the case of any eligible enterprise operating in Ukraine that receives technical assistance under the program.

SEC. 423.³ AUTHORIZATION FOR TRAINING PROGRAM AND INTERNSHIPS.

(a) **TRAINING PROGRAM.**—

(1) **IN GENERAL.**—The President is authorized to establish a program of technical assistance to provide the training described in section 421 to eligible enterprises.

(2) **IMPLEMENTATION.**—Training shall be carried out by United States nationals having expertise in business adminis-

³ 22 U.S.C. 5812 note.

tration, accounting, and marketing or by eligible nationals who have been trained under the program. Such training may be carried out—

(A) in the offices of eligible enterprises, at business schools or institutes, or at other locations in the program country, including facilities of the armed forces of the program country, educational institutions, or in the offices of trade or industry associations, with special consideration given to locations where similar training opportunities are limited or nonexistent; or

(B) by “distance learning” programs originating in the United States or in European branches of United States institutions.

(b) **INTERNSHIPS WITH UNITED STATES DOMESTIC BUSINESS CONCERNS.**—Authorized program costs may include the travel expenses and appropriate in-country business English language training, if needed, of eligible nationals who have completed training under the program to undertake short-term internships with business concerns in the United States.

SEC. 424.³ APPLICATIONS FOR TECHNICAL ASSISTANCE.

(a) **PROCEDURES.**—

(1) **IN GENERAL.**—Each eligible enterprise that desires to receive training for its employees and managers under this subtitle shall submit an application to the clearinghouse under subsection (c), at such time, in such manner, and accompanied by such additional information as may reasonably be required.

(2) **JOINT APPLICATIONS.**—A consortium of eligible enterprises may file a joint application under the provisions of paragraph (1).

(b) **CONTENTS.**—An application under subsection (a) may be approved only if the application—

(1) is for an individual or individuals employed in an eligible enterprise or enterprises applying under the program;

(2) describes the level of training for which assistance under this subtitle is sought;

(3) provides evidence that the eligible enterprise meets the general policies adopted for the administration of this subtitle;

(4) provides assurances that the eligible enterprise will pay a share of the costs of the training, which share may include in-kind contributions; and

(5) provides such additional assurances as are determined to be essential to ensure compliance with the requirements of this subtitle.

(c) **CLEARINGHOUSE.**—A clearinghouse shall be established or designated in each program country to manage and execute the program in that country. The clearinghouse shall screen applications, provide information regarding training and teachers, monitor performance of the program, and coordinate appropriate post-program follow-on activities.

SEC. 425.³ RESTRICTIONS NOT APPLICABLE.

Prohibitions on the use of foreign assistance funds for assistance for the Russian Federation or for Ukraine shall not apply with respect to the funds made available to carry out this subtitle.

SEC. 426.³ AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated \$10,000,000 for the fiscal year 2000 and \$10,000,000 for the fiscal year 2001 to carry out this subtitle.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated under subsection (a) are authorized to remain available until expended.

d. United States Informational, Educational, and Cultural Programs Authorization, Fiscal Years 1998 and 1999

Title XXIV of Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

* * * * *

DIVISION G—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998

* * * * *

SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

* * * * *

TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL INFORMATION PROGRAMS.—For “International Information Programs”, \$427,097,000 for the fiscal year 1998 and \$455,246,000 for the fiscal year 1999.

(2) TECHNOLOGY FUND.—For the “Technology Fund” for the United States Information Agency, \$5,050,000 for the fiscal year 1998 and \$5,050,000 for the fiscal year 1999.

(3) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

There are authorized to be appropriated for the “Ful-

bright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$99,236,000 for the fiscal year 1998 and \$100,000,000 for the fiscal year 1999.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—Of the amounts authorized to be appropriated under clause (i), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be available for the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—There are authorized to be appropriated for other educational and cultural exchange programs authorized by law, \$100,764,000 for the fiscal year 1998 and \$102,500,000 for the fiscal year 1999.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “South Pacific Exchanges”.

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “East Timorese Scholarships”.

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “Educational and Cultural Exchanges with Tibet” under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236).

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) ALLOCATION.—Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) RADIO CONSTRUCTION.—For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999,

and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

(8) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, not more than \$12,000,000 for the fiscal year 1998 and not more than \$12,500,000 for the fiscal year 1999.

(9) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the “National Endowment for Democracy”, \$30,000,000 for the fiscal year 1998 and \$31,000,000 for the fiscal year 1999.

(10) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For “Center for Cultural and Technical Interchange between North and South” not more than \$1,500,000 for the fiscal year 1998 and not more than \$1,750,000 for the fiscal year 1999.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

SEC. 2411.¹ RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.

SEC. 2412. USE OF SELECTED PROGRAM FEES.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows: * * *

SEC. 2413. MUSKIE FELLOWSHIP PROGRAM.

(a) GUIDELINES.—Section 227(c)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

(b) REDESIGNATION OF SOVIET UNION.—Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) in subsections (a), (b), and (c)(5), by striking “Soviet Union” each place it appears and inserting “independent states of the former Soviet Union”;

(2) in subsection (c)(11), by striking “Soviet republics” and inserting “independent states of the former Soviet Union”; and

(3) in the section heading, by inserting “INDEPENDENT STATES OF THE FORMER” after “FROM THE”.

¹ 22 U.S.C. 4416.

SEC. 2414. WORKING GROUP ON UNITED STATES GOVERNMENT-SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.

Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following new subsection: * * *

SEC. 2415. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) IN GENERAL.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319; 22 U.S.C. 2151 note) is amended—

(1) by striking “for fiscal year 1997” and inserting “for the fiscal year 1999”; and

(2) by inserting after “who are outside Tibet” the following: “(if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language)”.

(b)² EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998.

SEC. 2416. SURROGATE BROADCASTING STUDY.

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.

(a) RADIO FREE IRAN.—Not more than \$2,000,000 of the funds made available under section 2401(a)(4) of this division for each of the fiscal years 1998 and 1999 for grants to RFE/RL, Incorporated, shall be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as “Radio Free Iran”.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) AVAILABILITY OF FUNDS.—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

SEC. 2418.³ AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

SEC. 2419. PERMANENT ADMINISTRATIVE AUTHORITIES REGARDING APPROPRIATIONS.

Section 701(f) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking paragraph (4).

² 22 U.S.C. 2452 note.

³ 22 U.S.C. 1474 note.

SEC. 2420.⁴ VOICE OF AMERICA BROADCASTS.

(a) **IN GENERAL.**—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

(1) information on the products, tourism, and cultural and educational facilities of each State;

(2) information on the potential for trade with each State; and

(3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

(c) **STATE DEFINED.**—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

⁴ 22 U.S.C. 6202 note.

e. Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996

Partial text of Public Law 104-319 [H.R. 4036], 110 Stat. 3864, approved October 19, 1996; amended by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT Making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996”.

SEC. 2. TABLE OF CONTENTS.

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

TITLE I—FOREIGN RELATIONS PROVISIONS

SEC. 101. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended * * *²

SEC. 102.³ CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

(a) IN GENERAL.—In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy, the Secretary of State, with the assistance of the Under Secretary of State for Public Diplomacy, shall provide, where appropriate, opportunities for significant participation in such programs to nationals of such countries who are—

- (1) human rights or democracy leaders of such countries; or
- (2) committed to advancing human rights and democratic values in such countries.

¹22 U.S.C. 2151 note.

²See *Legislation on Foreign Relations Through 2001*, vol. I-A.

³22 U.S.C. 2452 note. Sec. 402 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536) amended and restated sec. 102. It previously read as follows:

“SEC. 102. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

“In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy (including but not limited to China, Vietnam, Cambodia, Tibet, and Burma), the Director of the United States Information Agency shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.”

(b) **GRANTEE ORGANIZATIONS.**—To the extent practicable, grantee organizations selected to operate programs described in subsection (a) shall be selected through an open competitive process. Among the factors that should be considered in the selection of such a grantee are the willingness and ability of the organization to—

- (1) recruit a broad range of participants, including those described in paragraphs (1) and (2) of subsection (a); and
- (2) ensure that the governments of the countries described in subsection (a) do not have inappropriate influence in the selection process.

SEC. 103. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) **ESTABLISHMENT OF EDUCATIONAL AND CULTURAL EXCHANGE FOR TIBETANS.**—The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad. Exchange programs under this subsection shall be known as the “Ngawang Choephel Exchange Programs”.⁴

(b) **SCHOLARSHIPS FOR TIBETANS AND BURMESE.**—

(1) Subject to the availability of appropriations, for fiscal year 2000⁵ at least 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion), (if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language)⁶ and at least 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(2) **WAIVER.**—Paragraph (1) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

(3) **SCHOLARSHIP DEFINED.**—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living ex-

⁴ 22 U.S.C. 2452 note. Sec. 401(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted this sentence.

⁵ Sec. 103(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “for the fiscal year 1999” and inserted in lieu thereof “for the fiscal year 2000”. Previously, sec. 2415(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-834), struck out “for fiscal year 1997” and inserted in lieu thereof “for the fiscal year 1999”.

⁶ Sec. 2415(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-834), inserted after “who are outside Tibet” the following parenthetical phrase: (if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language). Subsequently, sec. 103(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “Tibet,” and inserted in lieu thereof “Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion),”, resulting in the redundant and awkward language.

penses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 104. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

The Act of May 13, 1924 (49 Stat. 660, 22 U.S.C. 277-277f), is amended in section 3 (22 U.S.C. 277b) by adding at the end the following new subsection:

“(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.”.

TITLE II—FOREIGN ASSISTANCE PROVISIONS⁷

* * * * *

TITLE III—CLAIBORNE PELL INSTITUTE FOR INTERNATIONAL RELATIONS AND PUBLIC POLICY⁸

* * * * *

⁷For title II, see *Legislation on Foreign Relations Through 2001*, vol. I-B for freestanding section relating to foreign assistance to Mauritania, and vol. I-A, Foreign Assistance Act, secs. 116 and 502B as amended.

⁸See 110 Stat. 3867.

f. United States Information Agency Authorization, Fiscal Years 1994 and 1995

Partial text of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 420, approved April 30, 1994; amended by Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1536, approved November 29, 1999

NOTE.—Sections of this title amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

**TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out international information activities, and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the Center for Cultural and Technical Interchange Between North and South Act, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1)¹ SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$487,988,000 for the fiscal year 1994 and \$494,862,000 for the fiscal year 1995.

¹The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 108 Stat. 1190), provided \$730,000,000 for salaries and expenses.

Title II, chapter 2 of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211; 108 Stat. 16) required that \$2,000,000 of the funds made available under this heading in Public Law 103-121 to be used to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad. Title III, chapter 2 of the same Act (108 Stat. 27), rescinded \$2,000,000 from salaries and expenses.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1769), provided \$476,362,000.

(2)² EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs”, \$130,538,000 for the fiscal year 1994 and \$126,312,000 for the fiscal year 1995.

(B) OTHER PROGRAMS.—For “Hubert H. Humphrey Fellowship Program”, “Edmund S. Muskie Fellowship Program”, “International Visitors Program”, “Israeli-Arab Scholarship Program”, “Mike Mansfield Fellowship Program”, “Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation”, “Citizen Exchange Programs”, “Congress-Bundestag Exchange Program”, “Newly Independent States and Eastern Europe Training”, “Institute for Representative Government”, “American Studies Collections”, “South Pacific Exchanges”, “East Timorese Scholarships”, “Cambodian Scholarships”, and “Arts America”, \$96,962,000 for the fiscal year 1994 and \$97,046,000 for the fiscal year 1995.

(3)³ BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$21,000,000 for the fiscal year 1994 and \$27,609,000 for the fiscal year 1995.

(4)⁴ INTERNATIONAL BROADCASTING ACTIVITIES.—For “International Broadcasting Activities” under title III, \$541,676,000 for the fiscal year 1994, and \$609,740,000 for the fiscal year 1995.

(5)⁵ OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$4,247,000 for the fiscal year 1994 and \$4,396,000 for the fiscal year 1995.

(6)⁶ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Tech-

²The Department of State and Related Agencies Appropriations Act, 1994 (Title V of Public Law 103–121; 108 Stat. 1191), provided \$242,000,000 for educational and cultural exchange programs.

Title III, chapter 2, of Public Law 103–211 (108 Stat. 28), rescinding certain budget authority, however, rescinded \$850,000.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1770), provided \$238,279,000, of which \$500,000 to be made available for the Mike Mansfield Fellowship Program.

³The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1192), provided \$14 million for radio broadcasting to Cuba and \$7 million for television broadcasting to Cuba for fiscal year 1994. That Act also established an Advisory Panel on Radio Marti and TV Marti. For provisos relating to appropriations, and function of the Advisory Panel, see Public Law 103–121.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$24,809,000 for radio and television transmission to Cuba.

⁴The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1189), provided \$210,000,000 for grants and expenses.

Title III, chapter 2, of Public Law 103–211 (108 Stat. 27, 28), rescinding certain budget authority, however, rescinded \$1,700,000 for the Israel relay station, and another \$2,000,000 for radio construction.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317; 108 Stat. 1770) provided \$468,796,000.

⁵The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1190), provided \$4,247,000 for the Office of Inspector General.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1769), provided \$4,300,000.

⁶The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1191), provided \$26,000,000 for the East-West Center.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$24,500,000.

nical Interchange between East and West”, \$26,000,000 for the fiscal year 1994 and \$24,500,000 for the fiscal year 1995.

(7)⁷ TITLE V OF PUBLIC LAW 98–164.—To carry out title V of Public Law 98–164, \$35,000,000 for the fiscal year 1994 and \$35,000,000 for the fiscal year 1995.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for “Salaries and Expenses” under section 201(a)(1) for fiscal year 1995, \$500,000 is authorized to be appropriated for expenses and activities related to United States participation in the 1996 Budapest World’s Fair (Budapest Expo ’96).

(2) Of the amounts authorized to be appropriated for “Fulbright Academic Exchange Programs” under subsection (a)(2)(A)—

(A) \$3,000,000 is authorized to be available for fiscal year 1995 for the Vietnam Scholarship Program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138); and

(B) \$1,500,000 is authorized to be available for fiscal year 1994 and \$2,000,000 is authorized to be available for fiscal year 1995, for the “Environment and Sustainable Development Exchange Program” established by section 241.

(3) Of the amounts authorized to be appropriated for “Other Programs” under subsection (a)(2)(B) \$1,000,000 is authorized to be available for each of the fiscal years 1994 and 1995 for the “American Studies Collections” program established under section 235.

PART B—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

SEC. 221. USIA OFFICE IN LHASA, TIBET.

(a) ESTABLISHMENT OF OFFICE.—The Director of the United States Information Agency shall seek to establish an office in Lhasa, Tibet, for the purpose of—

- (1) disseminating information about the United States;
- (2) promoting discussions on conflict resolution and human rights;
- (3) facilitating United States private sector involvement in educational and cultural activities in Tibet; and
- (4) advising the United States Government with respect to Tibetan public opinion.

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than April 1 of each year, the Director of the United States Information Agency shall submit a detailed report on developments relating to the implementation of this section to the Committee on Foreign Relations

⁷The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1194), provided \$35,000,000 for the National Endowment for Democracy.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$34,000,000 for the National Endowment for Democracy.

of the Senate and the Committee on Foreign Affairs⁸ of the House of Representatives.

SEC. 222.⁹ CHANGES IN ADMINISTRATIVE AUTHORITIES. * * *

SEC. 223.¹⁰ EMPLOYMENT AUTHORITY.

For fiscal years 1994 and 1995, the Director of the United States Information Agency may, in carrying out the provisions of the United States Information and Educational Exchange Act of 1948, employ individuals or organizations by contract for services to be performed in the United States or abroad, who shall not, by virtue of such employment, be considered to be employees of the United States Government for the purposes of any law administered by the Office of Personnel Management, except that the Director may determine the applicability to such individuals of section 804(5) of that Act.

SEC. 224.¹¹ BUYING POWER MAINTENANCE ACCOUNT. * * *

SEC. 225.¹² CONTRACT AUTHORITY. * * *

SEC. 226. UNITED STATES TRANSMITTER IN KUWAIT.

None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the design, development, or construction of a United States short-wave radio transmitter in Kuwait.

SEC. 227.¹³ FULBRIGHT-HAYS ACT AUTHORITIES. * * *

SEC. 228.¹⁴ SEPARATE LEDGER ACCOUNTS FOR NED GRANTEES. * * *

SEC. 229. COORDINATION OF UNITED STATES EXCHANGE PROGRAMS.

(a)¹⁵ * * *

(b) **REPORT BY THE DIRECTOR OF USIA.**—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

- (1) detailing the range of exchange programs administered by the Agency;
- (2) identifying possible areas of duplication of inefficiency; and
- (3) recommending program consolidation and administrative restructuring as warranted.

⁸Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁹Sec. 222 amended sec. 801 of the United States Informational and Educational Exchange Act of 1948.

¹⁰22 U.S.C. 1474 note.

¹¹Sec. 224 amended sec. 704(c) of the United States Information and Educational Exchange Act of 1948 to establish the Buying Power Maintenance account.

¹²Sec. 225 amended sec. 802(b) of the United States Information and Educational Exchange Act of 1948 relating to the distribution of radio and television programs.

¹³Sec. 227 amended the Fulbright-Hays Act (Public Law 87–256; 22 U.S.C. 2455) at sec. 105(a).

¹⁴Sec. 228 amended sec. 504(h)(1) of the National Endowment for Democracy Act (title V of Public Law 96–164; 22 U.S.C. 4413(h)(1)).

¹⁵Sec. 229(a) amended sec. 112 of the Mutual Educational and Cultural Exchange Act of 1961.

¹⁶Formerly at 22 U.S.C. 2452 note. Sec. 204 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), stated limitations on the

SEC. 230.¹⁶ LIMITATION CONCERNING PARTICIPATION IN INTERNATIONAL EXPOSITIONS. * * * [Repealed—1999]

SEC. 231.¹⁷ PRIVATE SECTOR OPPORTUNITIES. * * *

SEC. 232.¹⁸ AUTHORITY TO RESPOND TO PUBLIC INQUIRIES. * * *

SEC. 233.¹⁹ TECHNICAL AMENDMENT RELATING TO NEAR AND MIDDLE EAST RESEARCH AND TRAINING. * * *

SEC. 234. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS OF THE UNITED STATES INFORMATION AGENCY.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),²⁰ the Director of the United States Information Agency may make available for distribution within the United States the following:

- (1) The United States Information Agency's Thomas Jefferson Paper Show, which commemorates the 250th anniversary of the birth of Thomas Jefferson.
- (2) The documentary entitled "Crimes Against Humanity", a film about the ensuing conflict in the former Yugoslavia.

SEC. 235.²¹ AMERICAN STUDIES COLLECTIONS.

(a) **AUTHORITY.**—In order to promote a thorough understanding of the United States among emerging elites abroad, the Director of the United States Information Agency is authorized to establish and support collections at appropriate university libraries abroad to further the study of the United States, and to enter into agreements with such universities for such purposes.

(b) **DESIGN AND DEVELOPMENT.**—Such collections—

- (1) shall be developed in consultation with United States associations and organizations of scholars in the principal academic disciplines in which American studies are conducted; and
- (2) shall be designed primarily to meet the needs of undergraduate and graduate students of American studies.

(c) **SITE SELECTION.**—In selecting universities abroad as sites for such collections, the Director shall—

- (1) ensure that such universities are able, within a reasonable period of the establishment of such collections, to assume responsibility for their maintenance in current form;
- (2) ensure that undergraduate and graduate students shall enjoy reasonable access to such collections; and

Department of State in obligating funds for international expositions; see 22 U.S.C. 2452b. Sec. 204(e) of that law also repealed sec. 230, which had provided as follows:

"Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose."

¹⁷Sec. 231 amended the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256) at sec. 104(e)(4).

¹⁸Sec. 232 amended sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 22 U.S.C. 1461–1a).

¹⁹Sec. 233 amended sec. 228(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 22 U.S.C. 2452 note).

²⁰See box note at page 1228–1229.

²¹22 U.S.C. 2452 note.

(3) include in any agreement entered into between the United States Information Agency and a university abroad, terms embodying a contractual commitment of such maintenance and access under this subsection.

(d) FUNDING.—

(1) The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the “fund”) to carry out the purposes of this section and to enter into such agreements as may be necessary to carry out the purposes of this section.

(2)(A) The Director shall make deposits to the fund of amounts appropriated or otherwise made available to carry out this section.

(B) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out this section. Sums donated to carry out the purposes of this section shall be deposited into the fund.

(3) The corpus of the fund shall be invested in federally-insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, obligations of the United States, or other low-risk instruments and securities.

(4) The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the purposes of this section.

(e) AVAILABILITY OF AUTHORIZATIONS OF APPROPRIATIONS.—Authorizations of appropriations for the purposes of this section shall be available without fiscal year limitation and shall remain available until used.

SEC. 236.²¹ EDUCATIONAL AND CULTURAL EXCHANGES WITH TIBET.

The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.²²

SEC. 237.²¹ SCHOLARSHIPS FOR EAST TIMORESE STUDENTS.

Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1994 and 1995, scholarships for East Timorese students qualified to study in the United States for the purpose of studying at the undergraduate level in a United States college or university. Each scholarship made available under this subsection shall be for not less than one semester of study.

²²Sec. 2401(3)(iv) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–831), provided:

“(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for ‘Educational and Cultural Exchanges with Tibet’ under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).”

SEC. 238.²¹ CAMBODIAN SCHOLARSHIP AND EXCHANGE PROGRAMS.

(a) **PURPOSE.**—It is the purpose of this section to provide financial assistance—

(1) to establish a scholarship program for Cambodian college and post-graduate students to study in the United States; and

(2) to expand Cambodian participation in exchange programs of the United States Information Agency.

(b) **PROGRAM.**—(1) The Director of the United States Information Agency shall establish a scholarship program to enable Cambodian college students and post-graduate students to study in the United States.

(2) The Director of the United States Information Agency shall also include qualified Cambodian citizens in exchange programs funded or otherwise sponsored by the Agency, in particular the Fulbright Academic Program, the International Visitor Program, and the Citizen Exchange Program.

(c) **DEFINITION.**—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 239.²¹ INCREASING AFRICAN PARTICIPATION IN USIA EXCHANGE PROGRAMS.

The Director of the United States Information Agency shall expand exchange program allocations to Africa, in particular Fulbright Academic Exchanges, International Visitor Programs, and Citizen Exchanges, and shall further encourage a broadening of affiliations and links between United States and African institutions.

SEC. 240.²¹ ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.

(a) **PURPOSE.**—The purpose of this section is to establish a program to promote academic exchanges in disciplines relevant to environment and sustainable development.

(b) **PROGRAM AUTHORITY.**—Notwithstanding any other provision of law, the Director of the United States Information Agency, through the Bureau of Educational and Cultural Affairs, shall provide scholarships beginning in the fiscal year 1994, and for each fiscal year thereafter, for study at United States institutions of higher education in furtherance of the purpose of this section for foreign students who have completed their undergraduate education and for postsecondary educators.

(c) **GUIDELINES.**—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall administer this program under the auspices of the Fulbright Academic Exchange Program.

(3) The United States Information Agency shall ensure the regional diversity of this program through the selection of candidates from Asia, Africa, Latin America, as well as Europe and the Middle East.

(d) DEFINITION.—For purposes of this section, the term “institution of higher education” has the same meaning given to such term by section 101²³ of the Higher Education Act of 1965.

SEC. 241.²¹ SOUTH PACIFIC EXCHANGE PROGRAMS.

(a) AUTHORIZED PROGRAMS.—The Director of the United States Information Agency is authorized to award academic scholarships to qualified students from the sovereign nations of the South Pacific region to pursue undergraduate and postgraduate study at institutions of higher education in the United States; to make grants to accomplished United States scholars and experts to pursue research, to teach, or to offer training in such nations; and to make grants for youth exchanges.

(b) LIMITATION.—Grants awarded to United States scholars and experts may not exceed 10 percent of the total funds awarded for any fiscal year for programs under this section.

SEC. 242.²¹ INTERNATIONAL EXCHANGE PROGRAMS INVOLVING DISABILITY RELATED MATTERS.

(a) AUTHORITY.—In carrying out the authorities of section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)), the President shall ensure that such authorities are used to promote educational, cultural, medical, and scientific meetings, training, research, visits, interchanges, and other activities, with respect to disability matters, including participation by individuals with disabilities (within the meaning of section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) in such activities, through such nonprofit organizations as have a demonstrated capability to coordinate exchange programs involving disability-related matters.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to Congress describing implementation of the requirements of this section.

(c) ANNUAL SUMMARY OF ACTIVITIES.—As part of the Congressional presentation materials submitted in connection with the annual budget request for the United States Information Agency, the Director of the Agency shall include a summary of the international exchange activities which meet the requirements of this section.

PART C—MIKE MANSFIELD FELLOWSHIPS

SEC. 251.²⁴ SHORT TITLE.

This part may be cited as the “Mike Mansfield Fellowship Act”.

²³ Sec. 102(a)(7)(A) of Public Law 105–244 (112 Stat. 1619) struck out “1201(a)” and inserted in lieu thereof “101”.

²⁴ 22 U.S.C. 6101 note.

SEC. 252.²⁵ ESTABLISHMENT OF FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—(1) There is hereby established the “Mike Mansfield Fellowship Program” pursuant to which the Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 253(5)(C), for such shorter period of time as the Center may determine based on a Fellow’s level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) During the first year each fellowship recipient will study the Japanese language as well as Japan’s political economy.

(B) During the second year each fellowship recipient will serve as a fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, subject to the approval of the Center, a nongovernmental Japanese institution associated with the interests of the fellowship recipient, and the agency of the United States Government from which the fellow originated, consistent with the purposes of this part.

(2) Fellowships under this part may be known as “Mansfield Fellowships”, and individuals awarded such fellowships may be known as “Mansfield Fellows”.

(b) ELIGIBILITY OF CENTER FOR GRANTS.—Grants may be made to the Center under this section only if the Center agrees to comply with the requirements of section 253.

(c) INTERNATIONAL AGREEMENT.—The Director of the United States Information Agency should enter into negotiations for an agreement with the Government of Japan for the purpose of placing fellows in the Government of Japan.

(d) PRIVATE SOURCES.—The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Director of the United States Information Agency.

(e) USE OF FEDERAL FACILITIES.—The National Foreign Affairs Training Center is authorized and encouraged to assist, on a reimbursable basis, in carrying out Japanese language training by the Center through the provision of teachers, classroom space, teaching materials, and facilities, to the extent that such provision is not detrimental to the Institute’s carrying out its other responsibilities under law.

SEC. 253.²⁶ PROGRAM REQUIREMENTS.

The program established under this part shall comply with the following requirements:

(1) United States citizens who are eligible for fellowships under this part shall be employees of the Federal Government having at least two years experience in any branch of the Government, a strong career interest in United States-Japan relations, and a demonstrated commitment to further service in the Federal Government, and such other qualifications as are determined by the Center.

²⁵ 22 U.S.C. 6101.

²⁶ 22 U.S.C. 6102.

(2) Not more than 10 fellowships may be awarded each year of which not more than 3 shall be awarded to individuals who are not detailed employees of the Government.

(3)(A) Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan, as determined by the Center, as a condition of continued receipt of Federal funds.

(B) Fellows who are not detailees shall agree to return to the Federal Government for further employment for a period of at least 2 years following the end of their fellowships, unless, in the determination of the Center, the fellow is unable (for reasons beyond the fellow's control and after receiving assistance from the Center as provided in paragraph (8)) to find reemployment for such period.

(4) During the period of the fellowship, the Center shall provide—

(A) to each fellow who is not a detailee a stipend at a rate of pay equal to the rate of pay that individual was receiving when he or she entered the program, plus a cost-of-living adjustment calculated at the same rate of pay, and for the same period of time, for which such adjustments were made to the salaries of individuals occupying competitive positions in the civil service during the same period as the fellowship; and

(B) to each fellow (including detailees) certain allowances and benefits as that individual would have been entitled to, but for his or her separation from Government service, as a United States Government civilian employee overseas under the Standardized Regulations (Government Civilians, Foreign Areas) of the Department of State, as follows: a living quarters allowance to cover the higher cost of housing in Japan, a post allowance to cover the significantly higher costs of living in Japan, an education allowance to assist parents in providing their children with educational services ordinarily provided without charge by United States public schools, moving expenses of up to \$1,000 for personal belongings of fellows and their families in their move to Japan and one-round-trip economy-class airline ticket to Japan for each fellow and the fellow's immediate family.

(5)(A) For the first year of each fellowship, the Center shall provide fellows with intensive Japanese language training in the Washington, D.C., area, as well as courses in the political economy of Japan.

(B) Such training shall be of the same quality as training provided to Foreign Service officers before they are assigned to Japan.

(C) The Center may waive any or all of the training required by subparagraph (A) to the extent that a fellow has Japanese language skills or knowledge of Japan's political economy, and the 2-year fellowship period shall be shortened to the extent such training is less than one year.

(6) Any fellow who is not a detailee who does not comply with the requirements of this section shall reimburse the

United States Information Agency for the Federal funds expended for the Fellow's participation in the fellowship, together with interest on such funds (calculated at the prevailing rate), as follows:

(A) Full reimbursement for noncompliance with paragraph (3)(A) or (9).

(B) Pro rata reimbursement for noncompliance with paragraph (3)(B) for any period the fellow is reemployed by the Federal Government that is less than the period specified in paragraph (3)(B), at a rate equal to the amount the fellow received during the final year of the fellowship for the same period of time, including any allowances and benefits provided under paragraph (4).

(7) The Center shall select fellows based solely on merit. The Center shall make positive efforts to recruit candidates reflecting the cultural, racial, and ethnic diversity of the United States.

(8) The Center shall assist, to the extent possible, any fellow who is not a detailee in finding employment in the Federal Government if such fellow was not able, at the end of the fellowship, to be reemployed in the agency from which he or she separated to become a fellow.

(9) No fellow may engage in any intelligence or intelligence-related activity on behalf of the United States Government.

(10) The financial records of the Center shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the financial records of the Center are normally kept. All books, financial records, files, and other papers, things, and property belonging to or in use by the Center and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(11) The Center shall provide a report of the audit to the Director of the United States Information Agency no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Center's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Center's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.

SEC. 254.²⁷ SEPARATION OF GOVERNMENT PERSONNEL DURING THE FELLOWSHIPS.

(a) **SEPARATION.**—Under such terms and conditions as the agency head may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts a fellowship under the program established by this part and is not detailed under section 255.

(b) **REEMPLOYMENT.**—Any fellow who is not a detailee, at the end of the fellowship, is entitled to be reemployed in the same manner as if covered by section 3582 of title 5, United States Code.

(c) **RIGHTS AND BENEFITS.**—Notwithstanding section 8347(o), 8713, or 8914 of title 5, United States Code, and in accordance with regulations of the Office of Personnel Management, an employee, while serving as a fellow who is not a detailee, is entitled to the same rights and benefits as if covered by section 3582 of title 5, United States Code. The Center shall reimburse the employing agency for any costs incurred under section 3582 of title 5, United States Code.

(d) **COMPLIANCE WITH BUDGET ACT.**—Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

SEC. 255.²⁸ MANSFIELD FELLOWS ON DETAIL FROM GOVERNMENT SERVICE.

(a) **IN GENERAL.**—(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) **STATUS AS GOVERNMENT EMPLOYEE.**—A fellow detailed under subsection (a) is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and

²⁷ 22 U.S.C. 6103.

²⁸ 22 U.S.C. 6104.

payment of such allowances and other benefits from appropriations available therefore is deemed to comply with section 5536 of title 5, United States Code.

(c) REIMBURSEMENT.—Fellows may be detailed under subsection (a) without reimbursement to the United States by the Center.

(d) ALLOWANCES AND BENEFITS.—A fellow detailed under subsection (a) may be paid by the Center for allowances and benefits listed in section 253(4)(B).

SEC. 256.²⁹ LIABILITY FOR REPAYMENTS.

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

- (1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and
- (2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

SEC. 257.³⁰ DEFINITIONS.

For purposes of this part—

- (1) the term “agency of the United States Government” includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;
- (2) the term “agency head” means—
 - (A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;
 - (B) in the case of the judicial branch of Government, the chief judge of the respective court;
 - (C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and
 - (D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;
- (3) the term “Center” means the Mansfield Center for Pacific Affairs; and
- (4) the term “ detailee ” means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

²⁹ 22 U.S.C. 6105.

³⁰ 22 U.S.C. 6106.

g. United States Information Agency Authorization, Fiscal Years 1992 and 1993

Partial text of Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647 at 691, approved October 28, 1991; amended by Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-134 [Department of State and Related Agencies Appropriations Act, 1996; title IV of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321 at 1321-26, approved April 26, 1996; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998

NOTE.—Sections of this title amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

* * * * *

**TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

PART A—UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the United States Information Agency (other than for the Voice of America) to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, and to carry out other authorities in law consistent with such purposes:

(1)¹ SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$423,827,500 for the fiscal year 1992 and \$451,294,000 for the fiscal year 1993.

(2)² OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General” \$4,206,000 for the fiscal year 1992 and \$4,420,000 for the fiscal year 1993.

(3)³ NATIONAL ENDOWMENT FOR DEMOCRACY.—For “National Endowment for Democracy”, \$25,000,000 for the fiscal year 1992 and \$31,250,000 for the fiscal year 1993.

(4)⁴ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Technical Interchange between East and West”, \$24,500,000 for the fiscal year 1992 and \$26,000,000 for the fiscal year 1993.

(b) AUTHORIZATION WITHIN “SALARIES AND EXPENSES” ACCOUNT.—Of the amount authorized to be appropriated by subsection (a)(1), \$284,000 is authorized for the fiscal year 1992 for the establishment and operation of a United States Information Agency office in Vientiane, Laos, pursuant to section 216 of this Act, and \$307,000 is authorized for fiscal year 1993 for the continued operation of such office.

* * * * *

SEC. 206.⁵ USIA POSTS AND PERSONNEL OVERSEAS. * * *

(b)⁶ * * * [Repealed—1998]

(c) REPEAL.—Section 204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 1461 note) is repealed.⁷

¹The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 821), provided \$691,725,000, for salaries and expenses, with several provisos.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided \$736,693,000, for salaries and expenses, with several provisos.

²The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 822), provided \$4,206,000, for Office of Inspector General.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided \$4,390,000.

³The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 823), provided \$27,500,000 for USIA grants to the National Endowment for Democracy.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1872), provided \$30,000,000 for USIA grants to the National Endowment for Democracy.

⁴The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 823), provided \$24,500,000, for USIA grants to the East-West Center.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1872), provided \$26,000,000, for USIA grants to the East-West Center.

⁵Sec. 206(a) added a new sec. 812 to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475g).

⁶Formerly at 22 U.S.C. 1475g note. Sec. 1336(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–790) struck out sec. 206(b), which had read as follows:

“(b) REDUCTIONS IN AMERICAN EMPLOYEES.—Reductions may not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees at the Agency at the same time in 1981.”

⁷Sec. 204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204), relating to USIA posts and personnel overseas, was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriations Act, 1988 (sec. 101(a) of Public Law 100–202; 101 Stat. 1329).

SEC. 207.⁸ IMPLEMENTATION OF BEIRUT AGREEMENT. * * ***SEC. 208.⁹ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH. * * ***

* * * * *

SEC. 210.¹⁰ CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) **PURPOSE.**—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) **GRANTS.**—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)¹¹ **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this section, of which not more than \$500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

SEC. 211. PROGRAM REVIEW OF NED.

(a) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated under section 201(3), after the submission of the report under subsection (b), there are authorized to be appropriated for the National Endowment for Democracy \$5,000,000 for fiscal year 1992.

(b) **REPORTING REQUIREMENT.**—The National Endowment for Democracy shall submit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a comprehensive report concerning the actions of the National Endowment for Democracy and certain grantees (the Free Trade Union Institute, the Center for International Private Enterprise, the National Republican Institute for International Affairs, and the National Democratic Institute for International Affairs) to comply with the recommendations of the General Accounting Office report of March 1991, entitled “Promoting Democracy: National Endowment for Democracy’s Management of Grants Needs Improvement”.

(c) **GENERAL ACCOUNTING OFFICE REPORT.**—Not more than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives an evaluation of the actions taken by the

⁸ Sec. 207 amended Public Law 89-634 (80 Stat. 879).

⁹ 22 U.S.C. 2075. For text of sec. 208, the “North/South Center Act of 1991”, see page 1437.

¹⁰ 22 U.S.C. 2452 note.

¹¹ The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 822), provided under educational and cultural exchange programs, that “\$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation”.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1870), provided under educational and cultural exchange programs, that “\$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government.”

National Endowment for Democracy and certain grantees to comply with the General Accounting Office report of March 1991.

(d) ANNUAL AUDIT.—Section 504(g) of the National Endowment for Democracy Act (22 U.S.C. 4413) is amended by striking out “may also” and inserting in lieu thereof “shall”.

(e) SENSE OF CONGRESS ON PRIVATE DONATIONS.—It is the sense of the Congress that the National Endowment for Democracy should make every effort to solicit private contributions to realize the purposes of the Endowment as set forth in section 502(b) of the National Endowment for Democracy Act.

SEC. 212.¹² USIA GRANTS.

(a) COMPETITIVE GRANT PROCEDURES.—Except as provided in subsection (b), the Department of State¹³ shall work to achieve full and open competition in the award of grants for carrying out its overseas public diplomacy functions.¹⁴

(b) EXCEPTIONS.—The Department of State¹³ may award an overseas public diplomacy grant¹⁵ under procedures other than competitive procedures when—

(1) such¹⁶ a grant is made under the Mutual Educational and Cultural Exchange Act of 1961 (commonly known as the Fulbright-Hays Act) or any statute which expressly authorizes or requires that a grant be made with a specified entity;

(2) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization have the effect of requiring the use of procedures other than competitive procedures;

(3) a recipient organization has developed particular expertise in the planning and administration of longstanding exchange programs important to United States foreign policy; or

(4) introducing competition would increase costs.

(c) COMPLIANCE WITH GRANT GUIDELINES.—

(1) After October 1, 1991, overseas public diplomacy¹⁷ grants awarded by the Department of State¹³ shall substantially comply with Department of State¹³ grant guidelines and applicable circulars of the Office of Management and Budget.

(2) If the Agency determines that a grantee has not satisfied the requirement of paragraph (1), the Department of State¹³ shall notify the grantee of the suspension of payments under a grant unless compliance is achieved within 90 days of such notice.

¹² 22 U.S.C. 1475h.

¹³ Sec. 1335(b)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out “United States Information Agency” each place it appeared in sec. 212 and inserted in lieu thereof “Department of State”.

¹⁴ Sec. 1335(b)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “for carrying out its overseas public diplomacy functions” after “grants”.

¹⁵ Sec. 1335(b)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out “a grant” and inserted in lieu thereof “an overseas public diplomacy grant”.

¹⁶ Sec. 1335(b)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “such” before “a grant”.

¹⁷ Sec. 1335(b)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “overseas public diplomacy” before “grants”.

(3) The Agency shall suspend payments under any such¹⁸ grant which remains in noncompliance 90 days after notification under paragraph (2).

(d)¹⁹ [Repealed—1999]

SEC. 213. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY PHOTOGRAPHIC WORKS OF RICHARD SAUNDERS.

(a) **DISTRIBUTION TO THE SCHOMBURG CENTER FOR BLACK STUDIES.**—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Schomburg Center for Black Studies, New York, New York, master copies of the United States Information Agency photographic works of Richard Saunders, a former employee of the United States Information Agency; and

(2) the Schomburg Center for Black Studies, New York, New York, shall reimburse the Director of the United States Information Agency for any expenses of the Agency in making such master copies.

(b) **REIMBURSEMENT.**—Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 214.²⁰ ISRAELI ARAB SCHOLARSHIP PROGRAM.

(a) **ESTABLISHMENT.**—Subject to the availability of funds under subsection (d), there is established in the United States Information Agency a fund to be known as the Israeli Arab Scholarship Fund (hereinafter in this Act referred to as the “fund”). The income from the fund shall be used for a program of scholarships for Israeli Arabs to attend institutions of higher education in the United States to be known as the Israeli Arab Scholarship Program (hereinafter in the section referred to as the “program”). The fund and the program shall be administered by the United States Information Agency in accordance with this section and the Mutual Educational and Cultural Exchange Act of 1961. The fund may accept contributions and gifts from public and private sources.

(b) **ADMINISTRATION OF THE FUND.**—It shall be the duty of the Director of the United States Information Agency to invest in full amounts made available to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The interest on, and the proceeds from the sale or

¹⁸Sec. 1335(b)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “such” before “grant”.

¹⁹Sec. 1335(b)(6) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out subsec. (d), which had read as follows:

“(d) **REPORT TO CONGRESS.**—Not later than 90 days after the date of the enactment of this Act, the Director of the United States Information Agency shall submit a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on United States Information Agency action to comply with subsection (a).”

redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(c) APPROPRIATIONS FROM THE FUND.—For each fiscal year, there is authorized to be appropriated from the fund for the Israeli Arab Scholarship Program the interest and earnings of the fund.

(d) FUNDING.—Amounts made available under section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (as amended by section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991), are authorized to be appropriated to the fund.²⁰

* * * * *

SEC. 216.²¹ ESTABLISHMENT OF USIA OFFICE IN VIENTIANE, LAOS.

The Director of the United States Information Agency shall establish an office in Vientiane, Laos, to assist in the propagation of American economic and political values.

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts:²²

²⁰ Sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1237), as amended, provided the following:

“MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

“SEC. 556. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than \$7,000,000 from funds appropriated under the heading ‘Economic Support Fund’.

“(b) Of the funds made available under the heading ‘Economic Support Fund’, \$5,000,000 shall be available only for a grant to assist in capitalizing an endowment whose income will be used for scholarships to enable Israeli Arabs to attend institutions of higher education in the United States: *Provided*, That such endowment and scholarship program shall be administered by an organization located in the United States, *Provided further*, That a grant may be made to capitalize such endowment only if private sector contributions of at least \$5,000,000 have been made by July 31, 1991, to assist in capitalizing the endowment; *Provided further*, That if the requirement for private sector contributions is not met, funds earmarked for the purpose of the endowment shall be reprogrammed within the Economic Support Fund account.”

Department of State and Related Agencies appropriations acts since 1993 have provided the following:

“ISRAELI ARAB SCHOLARSHIP PROGRAM

“For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, all interest and earnings accruing to the Israeli Arab Scholarship Fund * * * to remain available until expended.” (Public Law 102–395; 106 Stat. 1871; Public Law 103–121; 107 Stat. 1191; Public Law 103–317; 108 Stat. 1770; Public Law 104–134; 110 Stat. 1321–42; Public Law 104–208; 110 Stat. 3009–53; Public Law 105–119; 111 Stat. 2501; Public Law 105–277; 112 Stat. 2681–99; Public Law 106–113; 113 Stat. 1501A–43; and Public Law 106–553; 114 Stat. 2762A–95).

²¹ See also sec. 201(b) of this Act.

²² The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 822), provided the following:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$194,232,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which \$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation.”

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$37,749,000 for the fiscal year 1992 and \$39,308,000 for the fiscal year 1993.

(2) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs”, \$110,454,000 for the fiscal year 1992 and \$117,297,000 for the fiscal year 1993.

(3) HUBERT H. HUMPHREY FELLOWSHIP PROGRAM.—For the “Hubert H. Humphrey Fellowship Program”, \$5,682,000 for the fiscal year 1992 and \$6,000,000 for the fiscal year 1993.

(4) INTERNATIONAL VISITORS PROGRAM.—For the “International Visitors Program”, \$45,366,000 for the fiscal year 1992 and \$47,650,000 for the fiscal year 1993.

(5) OTHER PROGRAMS.—For “East Europe Training Projects”, “Citizen Exchange Programs”, and the “Congress-Bundestag Exchange Program”, \$14,028,000 for the fiscal year 1992 and \$14,700,000 for the fiscal year 1993.

(6) WORLD UNIVERSITY GAMES.—For cultural and exchange related activities associated with the 1993 World University Games in Buffalo, New York, \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993, provided that amounts authorized under this subsection are subject to all requirements governing United States Information Agency assistance to private organizations.

(7) NEAR AND MIDDLE EAST PROGRAMS.—For “Near and Middle East Programs”, \$3,000,000 for fiscal year 1993.

(8) VIETNAM SCHOLARSHIP PROGRAM.—For the “Vietnam Scholarship Program” established by section 229, \$300,000 for each of the fiscal years 1992 and 1993.

(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated \$2,000,000 for the fiscal year 1992, of which not more than \$1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

SEC. 222. FULBRIGHT EXCHANGE PROGRAMS ENHANCEMENT.

In addition to amounts authorized to be appropriated by section 221(2) for the Fulbright Academic Exchange Programs, \$2,700,000 is authorized to be appropriated for each of the fiscal years 1992 and 1993 to increase amounts otherwise available for Fulbright

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided the following:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$223,447,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which \$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government.”

Academic Exchange Programs for exchanges involving Latin America, Asia, and Africa.

SEC. 223. USIA CULTURAL CENTER IN KOSOVO.

(a) **ESTABLISHMENT.**—The Director of the United States Information Agency shall establish a cultural center in the capital of Kosovo in Yugoslavia when the Secretary of State determines that the physical security of the center and the personal safety of its employees may be reasonably assured.

(b) **REPORT.**—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until a center is established under subsection (a), the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs²³ of the House of Representatives on progress toward establishment of a center pursuant to subsection (a), including an assessment by the Secretary of State of the risks to physical and personal security of the establishment of such a center.

* * * * *

SEC. 225.²⁴ * * * [Repealed—1992]

SEC. 226.²⁵ ENHANCED EDUCATIONAL EXCHANGE PROGRAM.

(a) **PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.**—

(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) **PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.**—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by 100 over

²³ Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

²⁴ Sec. 807(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) repealed sec. 225, effective 6 months after the enactment of that Act (October 24, 1992). Sec. 225 provided for the Eastern Europe Student Exchange Endowment Fund. See FREEDOM Support Act, title VIII.

²⁵ 22 U.S.C. 2452 note.

the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

SEC. 227.²⁵ LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.²⁶

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the independent states of the Soviet Union,²⁷ Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the independent states of the Soviet Union,²⁷ Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

²⁶Sec. 2413(b)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), inserted “independent states of the former” after “from the” in the section catchline.

²⁷Sec. 2413(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), struck out “Soviet Union” and inserted in lieu thereof “independent states of the former Soviet Union” in subsecs. (a), (b), and (c)(5).

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, journalism and communications, education administration, public policy, library and information science,²⁸ economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the independent states of the Soviet Union,²⁷ Lithuania, Latvia, and Estonia, particularly business administration, journalism and communications, education administration, public policy, library and information science,²⁸ economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the independent states of the former Soviet Union,²⁹ Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d)³⁰ FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the United States Information Agency \$7,000,000 for fiscal year 1992, and \$7,000,000 for fiscal year 1993, to carry out this section.

²⁸ Sec. 2413(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), inserted “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

²⁹ Sec. 2413(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), struck out “Soviet republics” and inserted in lieu thereof “independent states of the former Soviet Union”.

³⁰ Sec. 104(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), authorized \$5,000,000 for each of fiscal years 2000 and 2001 for exchanges with Russia, and another \$1,500,000 for each of those fiscal years for doctoral graduate studies in economics for nationals of the independent states of the former Soviet Union, pursuant to this section.

(e) **COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.**—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)³¹ **DESIGNATION OF PROGRAM AND SCHOLARSHIPS.**—

(1) The scholarship program established by this section shall be known as the “Edmund S. Muskie Fellowship Program”.

(2) Scholarships provided under this section shall be known as “Muskie Fellowships”.

SEC. 228.²⁵ NEAR AND MIDDLE EAST RESEARCH AND TRAINING.

(a) **NEAR AND MIDDLE EAST STUDIES.**—The Director of the United States Information Agency may expend from the amount authorized for the Bureau of Educational and Cultural Affairs, such sums as are appropriate to assist graduate and postdoctoral studies by United States scholars on the Near and Middle East.

(b)³² [Repealed—1998]

(c) **RECOMMENDATIONS.**—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency, in consultation with qualified government agencies and appropriate private organizations and individuals, shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs²³ of the House of Representatives recommendations concerning the conduct of educational and cultural exchange programs administered and funded by the Agency.

(d) **DEFINITION.**—For purposes of this section, the term “Near and Middle East” refers to the region consisting of those countries and peoples covered by the Bureau of Near Eastern and South Asian Affairs of the Department of State on the day before the date of the enactment of this Act and includes the Republic of Turkey.³³

SEC. 229.^{25, 34} SCHOLARSHIPS FOR VIETNAMESE.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1992 and 1993, 15 scholarships for Vietnamese residents in Vietnam qualified to study in the United States for the purpose of studying in the United States. Each scholarship made available under this subsection shall be for not less than one semester of study in a United States college or university.

³¹ Sec. 801 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added subsec. (f).

³² Sec. 2219(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–817) struck out subsec. (b), which had read as follows:

“(b) **REPORT.**—The Director of the United States Information Agency shall prepare and submit to the President and the Congress at the end of each fiscal year in which assistance is provided under subsection (a) a report concerning such assistance.”

³³ Sec. 233 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 424), inserted “and includes the Republic of Turkey”.

³⁴ Sec. 201(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 421), continued this program, authorizing \$3,000,000 to be available for fiscal year 1995. Sec. 2401(3)(A)(ii) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–830), authorized \$5,000,000 for each of fiscal years 1998 and 1999. Sec. 104(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), authorized \$4,000,000 for each of fiscal years 2000 and 2001.

(b) PREFERENCE IN AWARDING SCHOLARSHIPS.—In awarding scholarships under this section, preference shall be given to candidates intending to pursue studies in economics and commercial law.

* * * * *

h. United States Information Agency Authorization, Fiscal Years 1990 and 1991

Partial text of Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

* * * * *

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the United States Information Agency (other than for the Voice of America) to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1)¹ SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$410,000,000 for the fiscal year 1990 and \$432,640,000 for the fiscal year 1991.

¹ The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1029), provided \$638,569,000, for salaries and expenses, with several provisos.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2146), provided \$652,757,000, for salaries and expenses, with several provisos.

(2)² TELEVISION AND FILM SERVICE.—For “Television and Film Service”, \$31,000,000 for the fiscal year 1990 and \$32,240,000 for the fiscal year 1991.

(3)³ NATIONAL ENDOWMENT FOR DEMOCRACY.—For “National Endowment for Democracy” \$25,000,000 for the fiscal year 1990 and \$25,000,000 for the fiscal year 1991.

(4)⁴ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Technical Interchange between East and West”, \$20,700,000 for the fiscal year 1990 and \$26,000,000 for the fiscal year 1991.

(b) SEVILLE WORLD’S FAIR.—(1) Subject to paragraph (2), there are authorized to be appropriated to the United States Information Agency for fiscal year 1990 \$7,300,000 for United States participation in the World’s Fair in Seville, Spain.

(2) Funds made available under this title for any educational or cultural exchange program, Voice of America programming to China, or any overseas post of the United States Information Agency may not be transferred or otherwise made available for the purposes of paragraph (1).

SEC. 202.⁵ DISSEMINATION OF INFORMATION WITHIN THE UNITED STATES. * * *

SEC. 203. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY FILM ENTITLED “LONG JOURNEY HOME”.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948⁶ (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “Long Journey Home”; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

²The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1029), provided not less than \$32,800,000 specifically for television and film service, notwithstanding sec. 209(e) of Public Law 100-204, for fiscal year 1990.

³The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1030), provided \$17,000,000 for the National Endowment for Democracy for fiscal year 1990.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2147), provided \$25,000,000, for the National Endowment for Democracy for fiscal year 1991.

⁴The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1030), provided \$20,700,000 for the East-West Center for fiscal year 1990.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2147), provided \$23,000,000, for fiscal year 1991.

⁵Sec. 202 amended sec. 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461).

⁶See page 1228 and box note.

(C) make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 204. THE J. WILLIAM FULBRIGHT FOREIGN SCHOLARSHIP BOARD.

(a) AMENDMENTS TO THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961. * * *

(b)⁷ CONTINUED SERVICE OF MEMBERS OF BOARD OF FOREIGN SCHOLARSHIPS.—Each member appointed to the Board of Foreign Scholarships before the date of the enactment of this Act shall continue to serve for the remainder of the term to which each such member was appointed.

(c)⁷ REFERENCES IN LAW.—Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board.

SEC. 205.⁸ USIA SATELLITE AND TELEVISION. * * *

SEC. 206.⁹ UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) * * *

(b)¹⁰ CONTINUED SERVICE OF MEMBERS OF COMMISSION.—Each member of the United States Advisory Commission on Public Diplomacy as in existence on the day before the effective date of section 604 of the United States Information and Educational Exchange Act of 1948 (as amended by section 213 of Public Law 100–204) shall continue to serve for the remainder of the term to which such member was appointed.

* * * * *

SEC. 210.¹¹ USIA NETWORK FOR DISSEMINATION OF INFORMATION CONCERNING UNITED STATES PROGRAMS TO COMBAT NARCOTICS AND OTHER CONTROLLED SUBSTANCES.

The United States Information Agency shall establish and maintain an international narcotics information network. The network shall disseminate prompt, accurate, and comprehensive information to foreign governments concerning programs and activities of the United States Government—

- (1) to eliminate the illicit production, trafficking, and abuse of narcotic and psychotropic drugs and other controlled substances within the United States; and
- (2) to promote drug prevention and rehabilitation in the United States.

⁷ 22 U.S.C. 2456 note.

⁸ Sec. 205 added a new sec. 505, USIA Satellite and Television, to the United States Information and Educational Exchange Act of 1948, and made conforming amendment to the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204).

⁹ Sec. 206(a) amended sec. 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469).

¹⁰ 22 U.S.C. 1469 note.

¹¹ 22 U.S.C. 1461 note.

SEC. 211. AFGHANISTAN COUNTRY PLAN.

(a) MAINTENANCE OF PLAN.—The Director of the United States Information Agency shall maintain a comprehensive country plan for the Agency's activities with respect to Afghanistan, consistent with the plan submitted to the Congress for the fiscal year 1989.

(b) REPORT.—Not later than March 1, 1990, the Director of the United States Information Agency shall submit to the Congress a report describing the Afghanistan country plan and including a specific outline on how that country plan will be adapted for implementation inside a free Afghanistan.

SEC. 212. GENERAL ACCOUNTING OFFICE STUDY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) STUDY OF NED.—The Comptroller General of the United States shall conduct a study of the operations of the National Endowment for Democracy. Such study shall evaluate—

(1) the programs and operations of the National Endowment for Democracy;

(2) the effectiveness of the National Endowment for Democracy in fulfilling its goals; and

(3) the management structure of the National Endowment for Democracy, including—

(A) an assessment of the present composition of the board of directors; and

(B) the capability and effectiveness of the board in providing objective oversight of the programs and operations of the National Endowment for Democracy.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Affairs¹² of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 213. REPORT TO CONGRESS ON THE ACQUISITION AND USE OF PUBLIC PROGRAMMING MATERIALS.

Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall provide to the chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a detailed report describing all programming material acquired by the United States Information Agency in the fiscal years 1988 and 1989 from public television and radio entities, including a description of how such program material was utilized by the United States Information Agency, in whole or in part, in original or edited form. Such report shall include a description of projected United States Information Agency use of programming material acquired for public television and radio entities through the fiscal year 1992.

¹²Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

(a)¹³ AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts:

(1) For “Salaries and Expenses”, \$43,323,000 for the fiscal year 1990 and \$45,056,000 for the fiscal year 1991.

(2) For the Fulbright Academic Exchange Programs, \$97,460,000 for the fiscal year 1990 and \$101,358,000 for the fiscal year 1991.

(3) For the Hubert H. Humphrey Fellowship Program, \$5,500,000 for the fiscal year 1990 and \$5,720,000 for the fiscal year 1991.

(4) For the International Visitors Program, \$41,817,000 for the fiscal year 1990 and \$43,490,000 for the fiscal year 1991.

(5) For the Arts America Program, \$6,400,000 for the fiscal year 1990 and \$6,656,000 for the fiscal year 1991.

(b)¹⁴ ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)(1), \$150,000 for the fiscal year 1990 and \$200,000 for the fiscal year 1991 shall be available only for the training at the University of Maine and in Washington, District of Columbia, of media personnel from developing French-speaking countries. The Voice of America International Broadcast Training Center shall administer such training program. The Bureau of Educational and Cultural Exchanges shall provide to the center such assistance as may be necessary in the facilitation of such program.

SEC. 222. CITIZEN EXCHANGES.

(a)¹⁵ * * *

(b)¹⁶ TRANSFER OF FUNCTIONS.—There are hereby transferred to the Office of Citizen Exchanges on the date of enactment of this

¹³The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), as amended, provided the following for “Educational and Cultural Exchange Programs”:

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) \$156,506,000, including up to \$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.”

Public Law 101–162 originally provided \$160,300,000 for these programs, but was amended to read “\$156,506,000” by sec. 320(c)(2) of Public Law 101–302 (104 Stat. 248).

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2146), provided the following for “Educational and Cultural Exchange Programs”:

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$163,151,000, of which up to \$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which \$500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon.”

¹⁴Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 waived this subsection for fiscal years 1990 and 1991, effective February 16, 1990.

¹⁵Sec. 222(a) amended sec. 112 of the Mutual Educational and Cultural Exchange Act of 1961.

¹⁶22 U.S.C. 2460 note.

Act all functions carried out by the Office of Private Sector Programs on the day before such date.

* * * * *

SEC. 225. SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) **ALLOCATION OF SCHOLARSHIPS.**—Of funds made available to the Bureau of Education and Cultural Affairs to carry out the Mutual Educational and Cultural Exchange Act of 1961, for each of the fiscal years 1992 and 1993¹⁷ not less than 30 scholarships are authorized to¹⁸ be made available to Tibetan students and professionals who are outside Tibet, and not less than 15 scholarships are authorized to¹⁸ be made available to Burmese students and professionals who are outside Burma.

(b) **WAIVER.**—Subsection (a) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

SEC. 226. SENSE OF CONGRESS CONCERNING THE HUMPHREY FELLOWSHIP PROGRAM.

It is the sense of the Congress that the United States Information Agency should review the Humphrey Fellowship Program and consider the feasibility of broadening the placement of fellows under such program to provide exposure to the processes of the United States Government, the Congress, and State and local governmental processes.

PART C—VOICE OF AMERICA

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Information Agency for the Voice of America for carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act the following amounts:

(1) **SALARIES AND EXPENSES.**—For “Salaries and Expenses”, \$170,024,000 for the fiscal year 1990 and \$176,825,000 for the fiscal year 1991.

(2)¹⁹ **ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES.**—For “Acquisition and Construction of Radio Facilities”,

¹⁷Sec. 224(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 698), struck out “Of the funds authorized to be appropriated by section 221 for each of the fiscal years 1990 and 1991,” and inserted in lieu thereof “Of funds made available to the Bureau of Education and Cultural Affairs to carry out the Mutual Educational and Cultural Exchange Act of 1961, for each of the fiscal years 1992 and 1993”.

¹⁸Sec. 224(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 699), struck out “shall” and inserted in lieu thereof “are authorized to”.

¹⁹The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment:

\$69,000,000 for the fiscal year 1990 and \$122,000,000 for the fiscal year 1991.

(3)²⁰ RADIO BROADCASTING TO CUBA.—For “Radio Broadcasting to Cuba”, \$12,700,000 for the fiscal year 1990 and \$13,208,000 for the fiscal year 1991.

(4) VOA EUROPE.—For “VOA Europe”, \$3,000,000 for the fiscal year 1990 and \$3,120,000 for the fiscal year 1991.

* * * * *

SEC. 233.²¹ VOA PUBLIC SERVICE ANNOUNCEMENTS TO PROMOTE CHILD SURVIVAL.

The United States Information Agency shall establish and maintain through the Voice of America a system of public service announcements focusing on child survival techniques.

SEC. 234. VOICE OF AMERICA BROADCASTS TO TIBET.

(a) ESTABLISHMENT OF SERVICE.—Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall establish through the Voice of America, a service to provide Voice of America Tibetan language programming to the people of Tibet.

(b) AMOUNT OF PROGRAMMING.—For each of the fiscal years 1990 and 1991, programming broadcasts to the people of Tibet pursuant to this section shall occur for not less than two hours each day.

(c) REPORT.—As soon as possible in the fiscal year 1990, the Director of the United States Information Agency shall submit to the Congress a comprehensive written report detailing the implementation of the programming provided for in this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available under subsection (e), there are authorized to be

Provided further, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.”

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2147), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$107,237,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).”

²⁰The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), provided the following for “Radio Broadcasting to Cuba”:

“For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).”

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2147), provided the following for “Broadcasting to Cuba”:

“For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, \$31,069,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.”

²¹22 U.S.C. 1463 note.

appropriated to the Voice of America for purposes of carrying out this section \$1,000,000 for each of the fiscal years 1990 and 1991.

(e) **TRANSFER AUTHORITY.**—The Director of the United States Information Agency may transfer to Voice of America Tibet Service such amounts appropriated for the “Television and Film Service” for each of the fiscal years 1990 and 1991 as exceed the amounts authorized to be appropriated for each such fiscal year for such Service.

SEC. 235.²² CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES.

The Director of the United States Information Agency may enter into a contract for the construction of the Voice of America’s Thailand, Sri Lanka, Sao Tome, Tinian,²³ and Kuwait²⁴ radio facilities for periods not in excess of 5 years or delegate such authority to the Corps of Engineers of the United States Department of the Army if there are sufficient funds to cover at least the Government’s liability for payments for the fiscal year in which the contract is awarded plus the full amount of estimated cancellation costs.

SEC. 236. VOICE OF AMERICA BROADCASTS TO THE PEOPLE’S REPUBLIC OF CHINA.

For each of the fiscal years 1990 and 1991, the Voice of America shall provide not less than 12 hours of programming each day for the People’s Republic of China.

SEC. 237. VOICE OF AMERICA EQUIPMENT ABROAD.

It is the sense of the Congress that the United States Information Agency and the Voice of America should take every step necessary to ensure that existing Voice of America equipment abroad is properly maintained and enhanced to prevent deterioration.

PART D—TELEVISION BROADCASTING TO CUBA²⁵

* * * * *

²²Sec. 1(a) of Public Law 102–499 (106 Stat. 3264) restated the section heading. It formerly read “VOICE OF AMERICA’S THAILAND RADIO FACILITIES”.

²³Sec. 410 of Public Law 104–134 (110 Stat. 1321–45) inserted “Tinian,” after “Sao Tome,”.

²⁴Sec. 1(b) of Public Law 102–499 (106 Stat. 3264) inserted “, Sri Lanka, Sao Tome, and Kuwait” after “Thailand”.

²⁵For this and other legislation relating to broadcasting to Cuba, see page 1519.

i. United States Information Agency Authorization, Fiscal Years 1988 and 1989

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; as amended by Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

* * * * *

TITLE II—THE UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

There are authorized to be appropriated to the United States Information Agency the following amounts to carry out international information activities under the United States Information and Educational Exchange Act of 1948, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

- (1) For “Salaries and Expenses”, \$369,455,000 for the fiscal year 1988 and \$376,845,000 for the fiscal year 1989;
- (2)¹ For “Television and Film Service”, \$30,391,000 for the fiscal year 1988 and \$30,999,000 for the fiscal year 1989; and

¹ The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100-202; 101 Stat. 1329), provided the following appropriations for “Television and Film Service”: \$36,900,000. In appropriating fiscal year 1988 funds for “Salaries and Expenses”, however, it waived sec. 201(2).

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2186), provided appropriations of \$38,500,000 for “Television and Film Service”, and waived sec. 201(2).

(3)² For “East-West Center”, \$20,000,000 for the fiscal year 1988 and \$20,400,000 for the fiscal year 1989.

* * * * *

SEC. 204.³ * * * [Repealed—1991]

* * * * *

SEC. 206. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.

(a) **THE AFGHANISTAN COUNTRY PLAN.**—The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of the enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

SEC. 207.⁴ * * * [Repealed—1998]

SEC. 208. LIMITATION ON WORLDNET FUNDING.

Funds may not be reprogrammed in fiscal years 1988 and 1989 from any program, project, or activity for Worldnet. Funds may not be transferred in fiscal years 1988 and 1989 from any other account for Worldnet.

SEC. 209. AUDIENCE SURVEY OF WORLDNET PROGRAM.

(a) **EARMARK.**—Of the funds authorized to be appropriated for USIA’s Worldnet Program by section 201(2), not less than \$500,000 for the fiscal year 1988 shall be available only for the purpose of conducting a market survey in Europe of USIA’s Worldnet programming.

(b) **QUALIFICATIONS OF SURVEYOR.**—Such survey shall be conducted by a television market survey company which has a long established reputation for objective estimates of television audience size and which has not less than 15 years of substantial experience in estimating audience size.

²The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriations for the “East-West Center”: \$20,000,000.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2186), provided appropriations of \$20,000,000 for the “East-West Center”.

³22 U.S.C. 1461 note. Sec. 206(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 693), repealed sec. 204. See also sec. 812 of the United States Information and Educational Exchange Act of 1948, as added by sec. 206(a) of Public Law 102–138.

Earlier, sec. 204 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act for Fiscal Year 1988, Public Law 100–202; 101 Stat. 1329). In providing appropriations for fiscal year 1988 for United States Information Agency “Salaries and Expenses”, however, sec. 101(a) of the Continuing Appropriations Act, 1988, also waived sec. 204.

⁴Formerly at 22 U.S.C. 1463 note. Sec. 1336(7) of Public Law 105–277 (112 Stat. 2681–790) repealed sec. 207, which provided as follows:

“SEC. 207. TELEVISION SERVICE OF THE UNITED STATES INFORMATION AGENCY.
“The television and film service of the United States Information Agency, including Worldnet broadcasts, shall operate under the same criteria and conditions as are specified for the Voice of America by section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463).”.

(c) ⁵ * * * [Repealed—1998]

(d) ⁵ * * * [Repealed—1998]

(e) ⁶ * * * [Repealed—1990]

SEC. 210. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency \$17,500,000 for the fiscal year 1988⁷ and \$18,100,000 for the fiscal year 1989⁸ to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than \$250,000 for the fiscal year 1988 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate, directly or indirectly, in controlling and directing the use of these funds to the free press and democratic civic opposition inside Nicaragua.

* * * * *

SEC. 214.⁹ DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED “AMERICA THE WAY I SEE IT”.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—¹⁰

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “America The Way I See It”; and

⁵Sec. 2219(a)(6) of public Law 105–277 (112 Stat. 2681–817) repealed subsecs. (c) and (d). Subsec. (c) required a report from USIA on the viewers of certain Worldnet programming. Subsec. (d) required USIA to notify Congress on the awarding of the survey contract authorized in subsecs. (a) and (b).

⁶Sec. 205(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 51), repealed subsec. (e). It formerly read as follows:

“(e) LIMITATION.—No funds authorized to be appropriated to the United States Information Agency shall be expended after October 1, 1988, on the production or acquisition of passive (non-interactive) programs for USIA’s Worldnet television service unless—

“(1) the survey required by this section has been completed in the manner described by this section;

“(2) the report required by this section, along with a copy of the survey results, has been submitted to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives; and

“(3) the survey shows with a high degree of reliability that the average daily European audience for the passive (noninteractive) programs of USIA’s Worldnet television service is not less than 2,000,000 viewers.”

⁷The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriations for the “National Endowment for Democracy”: \$16,875,000.

⁸The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2222), provided the following appropriations for the “National Endowment for Democracy”: \$15,800,000.

⁹Sec. 214 was also enacted as Public Law 100–167 (101 Stat. 910). For a listing of other USIA films or artistic works for which distribution within the United States has been authorized in recent years, see pages 1228–1229.

¹⁰Secs. 208 and 501 noted in this sentence restricted the domestic activities of the United States Information Agency.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 215. AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),¹⁰ the Director of the United States Information Agency shall make available, upon request, to the Secretary of Defense and the Secretaries of the military departments concerned photographs of military operations and military related activities that occurred in the Republic of Vietnam for the purpose of developing and publishing military histories by those departments. The Secretary of Defense, or the Secretary of the military department concerned, as appropriate, shall reimburse the Director for any expenses involved in making such photographs available. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 216. USIA UNDERGRADUATE SCHOLARSHIP PROGRAM.

(a) INCREASED FUNDING FOR CARIBBEAN REGION.—It is the sense of the House of Representatives that the United States Information Agency should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) DEFINITION.—

(1) As used in this section, the term “Caribbean region” means—

(A) Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Cuba, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Christopher and Nevis, St. Vincent and the Grenadines, St. Lucia, Trinidad and Tobago;

(B) Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Netherlands Antilles, Turks and Caicos Islands; and

(C) French Guiana, Guadeloupe, and Martinique.

(2) Nothing in this subsection may be construed to encourage or authorize scholarships for students from any country which is a Communist country.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS**SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency for the Bureau of Educational and Cultural Affairs \$188,625,000 for the fiscal year 1988¹¹ and \$192,438,000 for the fiscal year 1989¹² to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961. Of the funds authorized to be appropriated by this section, not less than—

(1) \$93,000,000 for the fiscal year 1988 and \$93,000,000 for the fiscal year 1989 shall be available only for grants for the Fulbright Academic Exchange Programs;

(2) \$39,000,000 for the fiscal year 1988 and \$39,000,000 for the fiscal year 1989 shall be available only for grants for the International Visitors Program;

(3) \$5,250,000 for the fiscal year 1988 and \$5,250,000 for the fiscal year 1989 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) \$2,500,000 for the fiscal year 1988 and \$2,500,000 for the fiscal year 1989 shall be available only for the Congress-Bundestag Exchange;

(5) \$500,000 for the fiscal year 1988 and \$500,000 for the fiscal year 1989 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6)¹³ \$5,000,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989 shall be available only for the Arts America Program; and

(7) \$300,000 for the fiscal year 1988 shall be available only for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

¹¹The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following for “Educational and Cultural Exchange Programs”:

“Notwithstanding section 301(a)(1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), \$142,310,000: *Provided*, That not less than \$540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further*, That not less than \$2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, \$7,730,000 of which \$500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.”

¹²The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), provided the following for “Educational and Cultural Exchange Programs”: \$150,040,000, to be disbursed by the programs listed in subpar. (1) through (4), and of the appropriation “\$9,290,000 is for Private Sector Programs including up to \$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.”

¹³The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), in appropriating funds for salaries and expenses, waived sec. 301(a)(6).

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than \$2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

SEC. 302. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a)¹⁴ * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 301, there is authorized to be appropriated \$2,000,000 for fiscal year 1988 and \$2,000,000 for fiscal year 1989 to carry out the program established by the amendment made by subsection (a).

SEC. 303.¹⁵ * * *

SEC. 304. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

(b) FINANCIAL SUPPORT FOR THE PROFESSORSHIP.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

* * * * *

SEC. 306. THE EDWARD ZORINSKY MEMORIAL LIBRARY.

(a) MEMORIAL FOR EDWARD ZORINSKY.—The United States Information Service library in Jakarta, Indonesia is named “The Edward Zorinsky Memorial Library”.

(b) MEMORIAL PLAQUE.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

“THE EDWARD ZORINSKY MEMORIAL LIBRARY

“This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zor-

¹⁴Subsec. (a) amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Samantha Smith Memorial Exchange Program.

¹⁵Sec. 303 amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Arts America Program.

insky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.”.

SEC. 307. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ¹⁶ * * *

(b) * * *

(c) APPLICATION.—The amendment made by subsection (a) shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act.

TITLE IV—VOICE OF AMERICA

SEC. 401.¹⁷ AUTHORIZATIONS OF APPROPRIATIONS.

In addition to the amounts authorized to be appropriated under title II, there are authorized to be appropriated the following amounts to the United States Information Agency for the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act:

- (1) for “Salaries and Expenses”, \$177,200,000 for the fiscal year 1988 and \$180,744,000 for the fiscal year 1989;
- (2)¹⁸ for “Voice of America/Europe”, \$3,000,000 for the fiscal year 1988 and \$3,060,000 for the fiscal year 1989; and

¹⁶Subsec. (a) amended sec. 306(b)(3)(A) of the Convention on Cultural Property Implementation Act to establish terms of service for members of the Cultural Property Advisory Committee.

¹⁷The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That not to exceed \$7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for an startup operations including a test of television broadcasting to Cuba: *Provided further*, That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service’s drug interdiction efforts and the United States Information Agency’s test of television broadcasting to Cuba: *Provided further*, That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further*, That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further*, That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees.”.

¹⁸The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following: “Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided*, That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.”.

(3)¹⁸ for “Radio Broadcasting to Cuba”, \$12,652,000 for the fiscal year 1988¹⁹ and \$12,905,000 for the fiscal year 1989.²⁰

* * * * *

SEC. 403.²¹ CONTRACTOR REQUIREMENTS.

(a) **FINDINGS.**—The Congress finds that the overriding national security aspects of the \$1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) **RESPONSIVE BID.**—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

(c) **PREFERENCE FOR UNITED STATES CONTRACTORS.**—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(d) **EXCEPTION.**—

(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

(A) precluded by the terms of an international agreement with the host foreign country;

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

(i) its national public radio and television sector, or

(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director

¹⁹The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriation for “Radio Broadcasting to Cuba”: \$12,759,000.

²⁰The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2222), provided the following appropriation for “Radio Broadcasting to Cuba”: \$11,175,000.

²¹22 U.S.C. 1471 note.

of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs²² and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

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

(1) the term “United States person” means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to any project with respect to which the Request For Proposals

²²Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

* * * * *

j. United States Information Agency Authorization, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985, amended by Public Law 103-149 [South African Democratic Transition Support Act of 1993, H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

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

* * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated for the United States Information Agency \$887,900,000 for the fiscal year 1986¹ and \$887,900,000 for the fiscal year 1987² to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, and other purposes authorized by law. Amounts appropriated

¹The Department of State and Related Agencies Appropriation Act, 1986 (Title V of Public Law 99-180; 99 Stat. 1167), included for fiscal year 1986 the following appropriations: salaries and expenses—\$571,000,000; educational and cultural exchange programs—\$128,106,000 (and \$9,894,000 for private sector exchange programs); acquisition and construction of radio facilities—\$114,000,000; radio broadcasting to Cuba—\$10,700,000; Center for Cultural and Technical Interchange Between East and West—\$20,750,000; National Endowment for Democracy—\$18,000,000.

²Title V of sec. 101(l) of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), included for fiscal year 1987 the following appropriations: salaries and expenses—\$570,000,000; educational and cultural exchange programs—\$135,270,000 (and \$9,730,000 for private sector exchange programs); acquisition and construction of radio facilities—\$46,000,000; radio broadcasting to Cuba—\$11,250,000; Center for Cultural Interchange between East and West—\$20,000,000; National Endowment for Democracy—\$15,000,000.

under this section are authorized to remain available until expended.

SEC. 202. MODERNIZATION OF VOICE OF AMERICA.

Of the authorizations of appropriations contained in section 201, authorizations of \$136,594,000 for the fiscal year 1986 and \$136,594,000 for the fiscal year 1987, which shall be available for essential modernization of the facilities and operations of the Voice of America, shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

SEC. 203. RADIO BROADCASTING TO CUBA.

Of the amounts authorized to be appropriated by section 201, not less than \$11,500,000 for the fiscal year 1986 and not less than \$11,700,000 for the fiscal year 1987 shall be available for the implementation of the Radio Broadcasting to Cuba Act.

SEC. 204. FUNDS FOR EDUCATIONAL AND CULTURAL EXCHANGES.

Of the amounts authorized to be appropriated by section 201—

(1) not less than \$128,899,500 for the fiscal year 1986 and not less than \$141,996,000 for the fiscal year 1987 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program;

(2) not less than \$4,891,500 for the fiscal year 1986 and not less than \$5,479,000 for the fiscal year 1987 shall be available only for grants for the Humphrey Fellowship Program; and

(3) \$45,400,000 for the fiscal year 1986 and \$45,100,000 for the fiscal year 1987 shall be allocated to fund grants and exchanges to Latin America and the Caribbean, and the amounts utilized for programs in Central America shall be obligated in a manner consistent with the recommendations of the National Bipartisan Commission on Central America.

SEC. 205. FUNDS FOR WORLDWIDE BOOK PROGRAM INITIATIVE.

Of the amounts authorized to be appropriated by section 201, not less than \$7,500,000 for each of the fiscal years 1986 and 1987 shall be available only for the worldwide book program initiative.

SEC. 206. FUNDS FOR EXCHANGE ACTIVITIES ASSOCIATED WITH THE 1987 PAN AMERICAN GAMES.

Of the amounts authorized to be appropriated for the fiscal years 1986 and 1987 by section 201, not less than \$1,500,000 for each such fiscal year shall be available only to the Indiana Sports Corporation for exchanges of persons and other exchange-related activities associated with the 1987 Pan American Games to be held in Indianapolis, Indiana.

SEC. 207. FUNDS FOR INTERNATIONAL GAMES FOR THE HANDICAPPED.

Of the amounts authorized to be appropriated for fiscal year 1986 by section 201, \$3,000,000 shall be available only to reimburse expenses for exchange of athletes, coaches, and officials participating in international games for the handicapped which are conducted in the United States.

SEC. 208.³ BAN ON DOMESTIC ACTIVITIES BY THE USIA.

Except as provided in section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.). The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.⁴

SEC. 209. PRIVATE SECTOR FUNDING FOR USIA'S PRIVATE SECTOR PROGRAM.

(a) **LIMITATION ON GRANTS.**—No grant shall be made to any organization through the Private Sector Program of the United States Information Agency unless—

(1) costs equal to at least 15 percent of grants from the United States Information Agency in fiscal year 1986, and

(2) costs equal to at least 25 percent of grants from the United States Information Agency in fiscal year 1987, for that organization's exchange and exchange-related programs are provided for from non-United States Government sources.

(b) **EXEMPTION FOR CERTAIN ORGANIZATIONS.**—Subsection (a) shall not apply to grantee organizations which have been in existence for less than one year.

(c) **PROHIBITION ON FUNDING 1985 INTERNATIONAL YOUTH YEAR ACTIVITIES.**—No funds from fiscal year 1986 appropriations for the United States Information Agency or for any other United States Government agency shall be available for grants related to 1985 International Youth Year activities.

SEC. 210.⁵ * * *

SEC. 211.⁶ * * * [Repealed—1993]

* * * * *

³22 U.S.C. 1461-1a. See sec. 501 of the United States Information and Educational Exchange Act of 1948, and related box note, for exceptions to this prohibition, beginning at page 1228. Sec. 1333(a) of Public Law 105-277 (112 Stat. 2681-785) provided the following:
"SEC. 1333. APPLICATION OF CERTAIN LAWS.

"(a) **APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

"(b) **APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

"(c) **LIMITATION ON USE OF FUNDS.**—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States."

⁴Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 424), added the last sentence in this section.

**k. United States Information Agency Authorization Act,
Fiscal Years 1984 and 1985**

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983; amended by Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

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

* * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

SHORT TITLE

SEC. 201. This title may be cited as the “United States Information Agency Authorization Act, Fiscal Years 1984 and 1985”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 202. In addition to the amounts otherwise authorized for such purposes, there are authorized to be appropriated for the United States Information Agency \$642,348,000 for the fiscal year 1984¹ and \$806,239,000 for the fiscal year 1985² to carry out inter-

¹The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98-166; 97 Stat. 1097) included \$624,565,000 for fiscal year 1984, itemized as follows: salaries and expenses—\$471,853,000; educational and cultural exchange programs—\$92,900,000; salaries and expenses (special foreign currency program)—\$9,800,000; Center for Cultural and Technical Interchange between East and West—\$18,362,000; and acquisition and construction of radio facilities—\$31,000,000.

²The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98-411; 98 Stat. 1564) included \$768,856,000 for fiscal year 1985, itemized as follows: salaries and expenses—\$545,856,000; salaries and expenses (special foreign currency program)—\$8,000,000; educational and cultural exchange programs—\$130,000,000; acquisition and construction of radio facilities—\$85,000,000. The Supplemental Appropriations Act, 1985 (title I of Public Law 99-88; 99 Stat. 293), for fiscal year 1985, provided as follows:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“Of the funds made available under this head in Public Law 98-411, \$3,800,000 for the pilot Central American Undergraduate Scholarship program shall remain available until September

national information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

IMPROVEMENT OF VOA FACILITIES AND OPERATIONS

SEC. 203. Of the authorizations of appropriations contained in section 202—

(1) authorizations of \$47,959,000 for the fiscal year 1984, which shall be available for the acquisition and construction of radio facilities,¹ and

(2) authorizations of \$164,800,000 for the fiscal year 1985, which shall be available for essential modernization of the facilities and operations of the Voice of America,²

shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

INTERNAL AUDITORS

SEC. 204. Of the amounts authorized to be appropriated by section 202, not less than \$600,000 for each of the fiscal years 1984 and 1985 shall be available only for the employment of twelve professional internal auditors for the United States Information Agency in excess of any internal auditors employed by the Agency during fiscal year 1983.

FUNDS FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY

SEC. 205.³ Of the amounts appropriated for the United States Information Agency for each of the fiscal years 1984 and 1985, not less than \$31,300,000 shall be available only for a grant, in accord-

30, 1986; and for an additional amount under this head, \$9,000,000, to remain available until September 30, 1986.

¹For an additional amount under this head to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields, \$500,000, to remain available until September 30, 1986: *Provided*, That the Director, with the Secretary of State, shall report to the appropriate committees of Congress on the obligation of these funds 60 days from the date of enactment of this Act.

²For the Private Sector Exchange Programs, an additional \$500,000 is provided, to remain available until expended, for the model Chinese-American Development Student Exchange Program at Tufts University as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.).

“ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

“For an additional amount for ‘Acquisition and Construction of Radio Facilities’, \$6,648,000, to remain available until expended.

“UNITED STATES INFORMATION AGENCY

“SALARIES AND EXPENSES

“(RESCISSION)

“Of available funds under this head, \$2,879,000 are rescinded.”

³The Department of State and Related Agency Appropriations Act, 1984 (title III of Public Law 98–166; 97 Stat. 1098), included \$18,000,000 for the National Endowment for Democracy during fiscal year 1984. The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98–411; 98 Stat. 1569), included \$18,500,000 for the National Endowment for Democracy during fiscal year 1985.

ance with title V of this Act, to the National Endowment for Democracy for use in carrying out its purposes.

EDUCATIONAL AND CULTURAL EXCHANGES

SEC. 206. (a) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1984, not less than \$100,500,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, not less than \$3,729,000 shall be available only for grants for the Humphrey Fellowship Program, and not more than \$7,100,000 shall be available for the Private Sector Program.⁴ Funds authorized to be appropriated by this title for the Private Sector Program shall be available only for grants to not-for-profit cultural, educational, or exchange-of-persons organizations. Of the funds authorized to be appropriated for the United States Information Agency for fiscal year 1984, \$3,000,000 shall be available only for enhancements of United States libraries overseas and programs providing support services to foreign students studying, or intending to study, in the United States.

(b) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1985, not less than \$123,100,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, and not less than \$4,435,000 shall be available only for grants for the Humphrey Fellowship Program.⁵

PRIVATE SECTOR PROGRAM

SEC. 207.⁶ (a) No funds authorized to be appropriated for the Private Sector Program shall be used to pay for foreign travel by any United States citizen who, in the five years preceding the date of the proposed foreign travel, made two or more trips financed in whole or in substantial part by grants from the Private Sector Program. This limitation shall not apply to escort interpreters accompanying delegations, to artists accompanying exhibitions, to persons engaging in theatrical or musical performances, or to the full-time staff of the grantee organization. In addition, the Director of the Bureau of Educational and Cultural Affairs may waive this limitation in exceptional cases if he determines that foreign travel is essential to the successful completion of the grant program and so certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to the commencement of the proposed foreign travel.

⁴The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98–166; 97 Stat. 1097), included \$92,900,000 for educational and cultural exchange programs and \$7,100,000 for the Private Sector Exchange Program during fiscal year 1984.

⁵The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98–411; 98 Stat. 1569), included \$121,352,000 for educational and cultural exchange programs and \$8,648,000 for the Private Sector Exchange Program during fiscal year 1985.

⁶22 U.S.C. 2460 note. Sec. 139(11) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398), repealed subsec. (b) of this section, which had required that the Director of the Bureau of Educational and Cultural Affairs report annually to Congress on certain aspects of foreign travel funded by the Private Sector Program.

INTERNATIONAL YOUTH YEAR

SEC. 208. (a) From the funds allocated to the Private Sector Program, the United States Information Agency may make grants to youth and youth service organizations in support of activities to promote participation by American young people in the activities of International Youth Year. Activities to be supported shall involve exchange-of-persons. Grants under this subsection shall be subject to all applicable guidelines and notification requirements, except that organizations receiving such grants shall not be subject to the funding limitation on newer organizations which is contained in the “ECA Grant Guidelines” which were submitted to the Congress on May 4, 1983 (see pages 42–44 of the report of the Committee on Foreign Relations on S. 1342 (Senate report numbered 98–143) and pages 66–68 of the report of the Committee on Foreign Affairs⁷ to accompany H.R. 2915 (House of Representatives report numbered 98–130)).

(b) The Secretary of State shall ensure that any organization designated by the United States Government, or any agency thereof, as the official United States commission or committee for United States participation in International Youth Year meets the following criteria: (1) the membership of such organization is open to all major youth and youth service organizations; (2) the charter of such organization provides that the organization will have full financial responsibility for its own assets, receipts, and expenditures; and (3) the composition of the Governing Board shall be elected from the constituent youth and youth service organizations, and in such an election the size of the membership of the constituent youth and youth service organizations shall be an important factor. Clause (3) shall not be construed as requiring any particular system of proportional representation in the election of the Governing Board.

(c) No funds authorized to be appropriated by this Act shall be made available to any organization to coordinate or plan for United States participation in International Youth Year if that organization does not meet the criteria specified in subsection (b).

PROHIBITION ON LOBBYING WITH UNITED STATES FUNDS BY USIA
GRANTEE ORGANIZATIONS

SEC. 209. None of the funds authorized to be appropriated by this title shall be used by any grantee organization of the United States Information Agency for lobbying or propaganda which is directed at influencing public policy decisions of the Government of the United States or any State or locality thereof. This section shall not be construed so as to abridge the right of any grantee organization to exercise the same freedom of speech as is protected by the first article of amendment of the United States Constitution, so long as such organization does not use funds provided under this title in exercising such right.

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

FUNDS FOR OFFICIAL RECEPTIONS AND ENTERTAINMENT EXPENSES

SEC. 210. Notwithstanding any other provision of law, not more than \$20,000 of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1984 or for the fiscal year 1985 shall be available for domestic representation or entertainment expenses, including official receptions.

FUNDS FOR UNITED STATES-GERMAN TEENAGE EXCHANGE

SEC. 211. In addition to amounts otherwise authorized to be appropriated for the United States Information Agency, there are authorized to be appropriated \$2,500,000 for the fiscal year 1984 and \$2,500,000 for the fiscal year 1985 to carry out a United States-German teenage exchange sponsored by the Members of the United States Congress and the West German Bundestag.

FUNDING FOR UNITED STATES PARTICIPATION IN THE TSUKUBA, JAPAN
EXPOSITION 1985

SEC. 212. In addition to amounts otherwise made available for such purpose, there are authorized to be appropriated to the United States Information Agency, without fiscal year limitation, \$4,000,000 for expenses in connection with United States participation in the Tsukuba, Japan Exposition 1985.

* * * * *

**I. United States Information Agency Authorization Act,
Fiscal Years 1982 and 1983**

**Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved
August 24, 1982**

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections in this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate acts.

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

* * * * *

TITLE III—UNITED STATES INFORMATION AGENCY

SHORT TITLE

SEC. 301. This title may be cited as the “United States Information Agency Authorization Act, Fiscal Years 1982 and 1983”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated for the United States Information Agency, as so redesignated by section 303 of this Act, \$494,034,000 for the fiscal year 1982¹ and \$559,000,000 for the fiscal year 1983² to carry out international communication,

¹The Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made applicable to Public Law 97-92, included \$488,886,000 for fiscal year 1982, itemized as follows: salaries and expenses—\$443,286,000; salaries and expenses (special foreign currency program)—\$9,800,000; Center for Cultural and Technical Interchange between East and West—\$16,800,000; and acquisition and construction of radio facilities—\$19,000,000.

²Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on September 24, 1982, and made part of Public Law 97-377, appropriated \$545,449,000 for fiscal year 1983 itemized in the following manner: salaries and expenses—\$492,122,000, of which \$84,292,000 shall be for certain USIA exchange programs; salaries and expenses (special foreign currency program)—\$10,327,000; Center for Cultural and Technical Interchange Between East and West—\$18,000,000; and acquisition of radio facilities—\$25,000,000.

In addition to funds contained in Public Law 97-377 for the United States Information Agency during fiscal year 1983, the Supplemental Appropriations Act, 1983 (Public Law 98-63; 97 Stat. 307), provided the following:

Continued

educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

REDESIGNATION OF THE INTERNATIONAL COMMUNICATION AGENCY AS
THE UNITED STATES INFORMATION AGENCY

SEC. 303.³ (a) The International Communication Agency, established by Reorganization Plan Numbered 2 of 1977, is hereby redesignated the United States Information Agency. The Director of the International Communication Agency or any other official of the International Communication Agency is hereby redesignated the Director or other official, as appropriate, of the United States Information Agency.

(b) Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).

* * * * *

INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

SEC. 305. (a) The Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose programs also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

“UNITED STATES INFORMATION AGENCY

“SALARIES AND EXPENSES

“For an additional amount for ‘Salaries and expenses’, \$9,000,000, and, in addition there shall be available the sum of \$4,000,000.

“ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

“For an additional amount for ‘Acquisition and construction of radio facilities’, \$10,800,000.”.
³22 U.S.C. 1461 note.

- (5) with the availability of increased resources, the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.
- (b) It is therefore the sense of the Congress that—
- (1) United States exchange-of-persons activities should be strengthened;
 - (2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing the United States national security; and
 - (3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term funding.
- (c)⁴ The amount obligated by the United States Information Agency each fiscal year for grants for exchange-of-persons activities shall be increased, through regular annual increases, so that by the fiscal year 1986 the amount obligated for such grants is at least double (in terms of constant dollars) the amount obligated for such grants for the fiscal year 1982.
- (d)⁴ (1) In furtherance of the purposes of subsection (c), the Congress directs that of the amount appropriated for the United States Information Agency for the fiscal year 1983—
- (A) \$84,256,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program; and
 - (B) \$3,248,000 shall be available only for grants for the Humphrey Fellowship Program; and
 - (C) \$8,906,000 shall be available only for grants to private, not-for-profit organizations engaging in exchange-of-persons programs;
- subject to paragraphs (2) and (3) of this subsection.
- (2) If the amount appropriated for the United States Information Agency for the fiscal year 1983 is less than the amount authorized for the fiscal year 1983, then the amounts specified in subparagraphs (A) through (C) of paragraph (1) shall each be deemed to be reduced to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the amount authorized. For purposes of this paragraph—
- (A) the term “amount appropriated” means the amount appropriated under section 302 of this Act (less any rescissions), and does not include amounts appropriated under section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations) or under any other provision of law; and
 - (B) the term “amount authorized” means the amount authorized to be appropriated by section 302 of this Act, less an amount equal to any amount which was withheld from appropriation (or was rescinded) in order to reduce the amount available for a particular program or activity.
- (3) The Director of the United States Information Agency may authorize up to 5 percent of the amount earmarked under subparagraph (A), (B), or (C) of paragraph (1) to be used for a purpose other than the exchange-of-persons activities specified in that sub-

⁴22 U.S.C. 2455 note.

paragraph. Not less than 15 days prior to any such authorization, the Director shall submit to the Committee on Foreign Affairs⁵ of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a justification for authorizing the use of earmarked funds for a purpose other than the specified exchange-of-persons activities.

* * * * *

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

**m. International Communication Agency Authorization Act,
Fiscal Years 1980 and 1981**

**Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved
August 15, 1979**

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

NOTE.—Sections in this Act amend State Department, ICA, and other foreign affairs legislation and are incorporated in the appropriate acts.

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

* * * * *

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

SHORT TITLE

SEC. 201. This title may be cited as the “International Communication Agency Authorization Act, Fiscal Years 1980 and 1981”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 202. There are authorized to be appropriated for the International Communication Agency \$432,547,000 for the fiscal year 1980 and \$465,944,000 for the fiscal year 1981¹ to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

* * * * *

SEC. 203. (a) * * *

¹The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), which included funds for the ICA, was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the ICA during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not received funding through an appropriation act. Under the terms of Public Law 96-536, the ICA was funded at levels established in H.R. 7584. H.R. 7584 provided \$419,000,000, of which not to exceed \$3,746,000 allocated by the ICA to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act shall remain available until expended. “Provided, That not to exceed \$460,000 may be used for representation abroad.”

(b) * * *

(c)² Section 602(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended—

(1) by striking out “or” at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof “; or”; and

(3) by inserting immediately after paragraph (20) the following new paragraph:

“(21) the Director of the International Communication Agency with respect to the furnishing of facilities in foreign countries and reception centers within the United States.”.

* * * * *

EFFECTIVE DATE

SEC. 209. The amendments made by sections 203 and 204 shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act.

²The Federal Property and Administrative Services Act of 1946 provided for a uniform procedure for the management and disposal of Government property. Sec. 602(d) of such Act exempted the provisions of the Act from impairing or affecting any authority of 21 specified Government agency heads to perform specific tasks. This amendment added the Director of the ICA to this exemption list.

**n. International Communication Agency Authorization for
Fiscal Year 1979**

**Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved
October 7, 1978**

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Relations Au-
thorization Act, Fiscal Year 1979".

* * * * *

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 201. (a) There is authorized to be appropriated for the Inter-
national Communication Agency for fiscal year 1979 to carry out
international communication, educational, cultural, and exchange
programs under the United States Information and Educational
Exchange Act of 1948, the Mutual Educational and Cultural Ex-
change Act of 1961, and Reorganization Plan Numbered 2 of 1977,
and other purposes authorized by law, \$420,577,000, and such ad-
ditional amounts as may be necessary for increases in salary, pay,
retirement, and other employee benefits authorized by law, and for
other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to re-
main available until expended.

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

SEC. 202.¹ The mission of the International Communication
Agency shall be to further the national interest by improving

¹ 22 U.S.C. 1461-1. Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the Inter-
national Communication Agency as the United States Information Agency and stated that any
reference to the International Communication Agency in any statute, reorganization plan, Exec-
utive order, regulation, agreement, determination, or other official document or proceeding, shall
be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that
references to the Director or other official of the International Communication Agency shall be
deemed to refer to the Director or other official of the United States Information Agency.

Sec. 1333(a) of Public Law 105-277 (112 Stat. 2681-785) provided the following:
"SEC. 1333. APPLICATION OF CERTAIN LAWS.

Continued

United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the International Communication Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the Agency.

EXPANDED EXCHANGE ACTIVITIES

SEC. 203. The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the International Communication Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress.

* * * * *

FUNCTIONS RELATING TO THE NATIONAL GALLERY OF ART

SEC. 205. The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the

“(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.”

“(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

“(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.”

joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 72(a)).

FUNCTIONS RELATING TO THE WOODROW WILSON INTERNATIONAL
CENTER FOR SCHOLARS

SEC. 206.² * * *

* * * * *

²Sec. 206 amended the Woodrow Wilson Memorial Act of 1968 at 20 U.S.C. 80f.

**o. United States Information Agency Authorization for
Fiscal Year 1978**

**Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved
August 17, 1977**

AN ACT To authorize fiscal year 1978 appropriations for the Department of State,
the United States Information Agency, and the Board for International Broadcast-
ing, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Relations Au-
thorization Act, Fiscal Year 1978".

* * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated for the
United States Information Agency for fiscal year 1978, to carry out
international informational activities and programs under the
United States Information and Educational Exchange Act of 1948,
the Mutual Educational and Cultural Exchange Act of 1961, and
Reorganization Plan Numbered 8 of 1953, and other purposes au-
thorized by law, the following amounts:

(1) For "Salaries and expenses" and "Salary and expenses
(special foreign currency program)", \$269,286,000.

(2) For "Special international exhibitions", \$4,360,000.

(3) For "Acquisition and construction of radio facilities",
\$19,872,000.

(4) For increases in salary, pay, retirement, and other em-
ployee benefits authorized by law, and for other nondiscretion-
ary costs, such additional amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to re-
main available until expended.

TRANSFER AUTHORITY

SEC. 202. Funds authorized to be appropriated for fiscal year
1978 by any paragraph of section 201(a) (other than paragraph (4))
may be appropriated for such fiscal year for a purpose for which
appropriations are authorized by any other paragraph of such sec-
tion (other than paragraph (4)), except that the total amount ap-
propriated for a purpose described in any paragraph of section
201(a) (other than paragraph (4)) may not exceed the amount spe-
cifically authorized for such purpose by section 201(a) by more than
10 per centum.

REPLACEMENT OF FACILITIES IN SOWETO, REPUBLIC OF SOUTH AFRICA

SEC. 203. The Director of the United States Information Agency¹ shall prepare and submit to the Secretary of State plans for the replacement under the Foreign Service Buildings Act, 1926, of the Agency's facilities in Soweto, Republic of South Africa.

* * * * *

USE BY THE JOHN FITZGERALD KENNEDY LIBRARY OF CERTAIN FILMS
PREPARED BY THE UNITED STATES INFORMATION AGENCY

SEC. 205. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency¹ shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services for deposit or use at the John Fitzgerald Kennedy Library in Boston, Massachusetts, copies of the following films and trims and outs:

“President Kennedy Addresses Canadian Parliament”.
 “United in Progress”.
 “America Welcomes Prime Minister Baldewa (Nigeria)”.
 “U.S. Welcomes Crown Prince Hassan (Libya)”.
 “America Welcomes Ayub Khan”.
 “America Welcomes President Aboud (Sudan)”.
 “Firm Alliance (Iran)”.
 “American Journey (Ivory Coast)”.
 “A Welcome Visitor (Nehru)”.
 “Haile Selassie (Return Trip)”.
 “His Majesty, King Hassan (Morocco) Visits U.S.”.
 “Salute to an African Leader (Bourguiba-Tunisia)”.
 “Inauguration of John F. Kennedy”.
 “The Task Begun”.
 “Progress Through Freedom”.
 “Forging the Alliance”.
 “Prime Minister of Somali Republic Visits U.S.”.
 “President Olympio of Togo Visits U.S.”.
 “Five Cities in June”.
 “From Uganda to America”.
 “President Ahidjo Visits U.S.”.
 “Mrs. Kennedy's Asian Journey”.
 “Invitation to India”.
 “Invitation to Pakistan”.

¹ Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

**p. United States Information Agency Authorization for
Fiscal Year 1977**

**Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12,
1976**

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

* * * * *

TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1977, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961 and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) For "Salaries and Expenses" and "Salary and Expenses (special foreign currency program)", \$255,925,000.

(2) For "Special International Exhibitions", \$4,841,000.

(3) For "Acquisition and Construction of Radio Facilities", \$2,142,000.

(4) Such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

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

TRANSFER AUTHORITY

SEC. 202. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 201(a) (other than paragraph (4)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (4)), except that the total amount appropriated for a purpose described in any paragraph of section 201(a) (other than paragraph (4)) may not exceed the amount specifically authorized for such purpose by section 201(a) by more than 10 per centum.

* * * * *

BICENTENNIAL DISTRIBUTION OF CERTAIN ITEMS PREPARED BY THE
UNITED STATES INFORMATION AGENCY

SEC. 205.¹ * * *

* * * * *

¹The titles of films and related items authorized for distribution within the United States are listed on pages 1228-1229.

q. United States Informational, Educational, and Cultural Programs Appropriations

(1) United States Informational, Educational, and Cultural Programs Appropriations, 2001

Partial text of Public Law 106-553 [Department of State and Related Agency Appropriations Act, 1997; title IV of H.R. 5548, enacted by reference in H.R. 4942], 114 Stat. 2762A-90, approved December 21, 2000

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

* * * * *

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$231,587,000, to remain available until expended: *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and educational advising and counseling programs as authorized.

* * * * *

OTHER

* * * * *

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2001, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization

Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2001, to remain available until expended.

EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$13,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$30,999,000, to remain available until expended.

* * * * *

(2) United States Informational, Educational, and Cultural Programs Miscellaneous Appropriations, 2001

Partial text of Public Law 106-554 [Consolidated Appropriations, 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making consolidated appropriations for the fiscal year ending September 30, 2001, and for other purposes.

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

* * * * *

SECTION 1. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:

(1) * * *

(2) H.R. 5657, as introduced on December 14, 2000.¹

(3) * * *

(4) H.R. 5666, as introduced on December 15, 2000, except that the text of H.R. 5666, as so enacted, shall not include section 123 (relating to the enactment of H.R. 4904).²

(5)-(9) * * *

* * * * *

APPENDIX B—H.R. 5657

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2001, and for other purposes, namely:

* * * * *

TITLE II—OTHER AGENCIES

* * * * *

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, * * * \$282,838,000, * * * *Provided further*, That of the total amount appropriated, \$10,000,000 is to remain available until expended for salaries and expenses to carry out the Russian Leadership Program enacted on May 21, 1999 (113 Stat. 93 et seq.): * * *

* * * * *

¹The Legislative Branch Appropriations Act, 2001; 114 Stat. 2763A-93 through 2763A-124.
²The Miscellaneous Appropriations Act, 2001; 114 Stat. 2763a-171 through 2763a-352.

TITLE III—GENERAL PROVISIONS

* * * * *

SEC. 310.³ RUSSIAN LEADERSHIP PROGRAM.—Section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 93) is amended—

(1) by striking “fiscal years 1999 and 2000” in subsections (a)(1), (b)(4)(B), (d)(3), and (h)(1)(A) and inserting “fiscal years 2000 and 2001”; and

(2) by striking “2001” in subsection (a)(2), (e)(1), and (h)(1)(B) and inserting “2002”.

* * * * *

SEC. 313.⁴ CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT.
* * *

SEC. 314. REVIEW OF PROPOSED CHANGES TO EXPORT THRESHOLDS FOR COMPUTERS. Not more than 50 days after the date of the submission of the report referred to in subsection (d) of section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note), the Comptroller General of the United States shall submit an assessment to Congress which contains an analysis of the new computer performance levels being proposed by the President under such section.

* * * * *

This Act may be cited as the “Legislative Branch Appropriations Act, 2001”.

* * * * *

APPENDIX D—H.R. 5666

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

DIVISION A

* * * * *

CHAPTER 2

* * * * *

DEPARTMENT OF STATE AND RELATED AGENCY

GENERAL PROVISIONS

SEC. 210. In addition to any amounts made available for “Educational and Cultural Exchange Programs within the Department of State”, \$500,000 shall be made available only for the Irish Institute.

SEC. 211. In addition to amounts appropriated under the heading “International Broadcasting Operations, Broadcasting Board of Governors” in the Departments of Commerce, Justice, and State,

³For amended text, see page 1377.

⁴For text, see page 1374. See also Public Law 106-31, sec. 3011 (113 Stat. 98; 22 U.S.C. 2452a note), relating to the same program, beginning at page 1377.

the Judiciary, and Related Agencies Appropriations Act, 2001, \$10,000,000 to remain available until expended, for increased broadcasting to Russia and surrounding areas, and to China, by Radio Free Europe/Radio Liberty, Radio Free Asia, and the Voice of America: Provided, That any amount of such funds may be transferred to the "Broadcasting Capital Improvements" account to carry out such purposes.

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CHAPTER 3

DEPARTMENT OF DEFENSE

GENERAL PROVISIONS—THIS CHAPTER

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(INCLUDING TRANSFER OF FUNDS)

SEC. 313. In addition to amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 2001 (Public Law 106-259), \$100,000,000 is hereby appropriated for "Overseas Contingency Operations Transfer Fund" and shall remain available until expended: *Provided*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act: *Provided further*, That funds appropriated by this section, or made available by the transfer of funds in this section, for intelligence activities are deemed to be specifically authorized by the Congress for the purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2001: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

* * * * *

CHAPTER 6

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. Of the funds appropriated under the heading Department of State, International Narcotics Control and Law Enforcement, in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, not less than \$1,350,000 shall be available only for the Protection Project to continue its study of

international trafficking, prostitution, slavery, debt bondage, and other abuses of women and children.

SEC. 602. EMBASSY COMPENSATION AUTHORITY. Funds made available under the heading "Other Bilateral Economic Assistance, Economic Support Fund" included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106-429) may be made available, notwithstanding any other provision of law, to provide payment to the Government of the People's Republic of China for property loss and damage arising out of the May 7, 1999 incident in Belgrade, Federal Republic of Yugoslavia.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

* * * * *

UNITED STATES FISH AND WILDLIFE SERVICE

* * * * *

MULTINATIONAL SPECIES CONSERVATION FUND

For an additional amount for the "Multinational Species Conservation Fund", \$750,000, to remain available until expended, for Great Ape conservation activities authorized by law.

* * * * *

CHAPTER 14

GENERAL PROVISIONS—THIS DIVISION

* * * * *

SEC. 1403. (a) GOVERNMENT-WIDE RESCISSIONS.—There is hereby rescinded an amount equal to 0.22 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2001 in this or any other Act for each department, agency, instrumentality, or entity of the Federal Government, except for those programs, projects, and activities which are specifically exempted elsewhere in this provision: *Provided*, That this exact reduction percentage shall be applied on a pro rata basis only to each program, project, and activity subject to the rescission.

(b) RESTRICTIONS.—This reduction shall not be applied to the amounts appropriated in title I of Public Law 106-259: *Provided*, That this reduction shall not be applied to the amounts appropriated in division B of Public Law 106-246: *Provided further*, That this reduction shall not be applied to the amounts appropriated under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as contained in this Act, or in prior Acts.

(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2002 a report specifying the reductions made to each account pursuant to this section.

DIVISION B

TITLE I

* * * * *

SEC. 145. (a) Section 4(b)(1) of the Department of State Special Agents Retirement Act of 1998 (22 U.S.C. 4044 note; Public Law 105-382; 112 Stat. 3409) is amended by inserting “or participant who was serving as of January 1, 1997” after “employed participant”.⁵

(b) The amendment made by this section shall take effect on January 1, 2001.

* * * * *

TITLE II—VIETNAM EDUCATION FOUNDATION ACT OF 2000⁶

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TITLE XV—LIFE ACT AMENDMENTS

SEC. 1501. SHORT TITLE.

This title may be cited as the “LIFE Act Amendments of 2000”.

* * * * *

SEC. 1505. MISCELLANEOUS AMENDMENTS TO VARIOUS ADJUSTMENT AND RELIEF ACTS.

(a) NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.—

(1) IN GENERAL.—Section 202(a) of the Nicaraguan Adjustment and Central American Relief Act is amended—* * *⁷

(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.

(b) HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.—

(1) INAPPLICABILITY OF CERTAIN PROVISIONS.—Section 902(a) of the Haitian Refugee Immigration Fairness Act of 1998 is amended—* * *⁸

⁵ For amended text, see page 639, footnote 156.

⁶ For text, see page 1388.

⁷ For amended text, see page 1180.

⁸ For amended text, see page 1174.

(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.

(c) SECTION 309 OF IIRIRA.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by adding at the end the following new subsection: * * *

SEC. 1506. EFFECTIVE DATE.

This title shall take effect as if included in the enactment of the Legal Immigration Family Equity Act.

* * * * *

This Act may be cited as the “Miscellaneous Appropriations Act, 2001”.

* * * * *

r. Au Pair Provisions

(1) Extension of Au Pair Program

Public Law 104–72 [S. 1465], 109 Stat. 776, approved December 23, 1995; amended by Public Law 105–48 [S. 1211], 111 Stat. 1165, approved October 1, 1997

AN ACT To extend au pair programs.

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

SECTION 1. EXTENSION OF AU PAIR PROGRAMS.

(a) REPEAL.—Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is repealed.¹

(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis.²

(c) REPORT.—Not later than October 1, 1996, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.

¹Sec. 8 of Public Law 101–454 extended USIA's authority to administer an au pair program until such programs could be taken over by another U.S. Government agency.

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 751), amended sec. 8 (after its repeal) to extend the authority therein to fiscal year 1996.

²Sec. 1 of Public Law 105–48 (111 Stat. 1165) struck out “, through fiscal year 1997” at this point.

**(2) Miscellaneous International Affairs Authorizations Act of
1988**

**Title III of S. 2757, enacted by reference in Public Law 100-461, 102 Stat.
2268, approved October 1, 1988**

TITLE III—AU PAIR PROVISION

SEC. 301. AU PAIR PROVISION

(a) SENSE OF CONGRESS.—It is the sense of Congress that the terms and conditions (including, but not limited to, those relating to educational requirements and permissible hours of child care) previously authorized by the United States Information Agency to implement Exchange Visitor Program Nos. P-3-5214T and P-3-5238T are in keeping with the goals and objectives of the Fulbright-Hayes Act (Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2451 et seq.).

(b) PROHIBITION ON CERTAIN USE OF FUNDS.—Notwithstanding any other provision of law, no funds authorized to be appropriated to the United States Information Agency may be obligated or expended for the purpose of, or which would result in, the termination or a substantial alteration of the terms and conditions previously authorized by the Agency for the implementation of Exchange Visitor Programs Nos. P-3-5214T and P-3-5238T.

s. USIA Distribution of Materials—“Windows on America”

Public Law 105-373 [H.R. 4083], 112 Stat. 3382, approved November 12, 1998

AN ACT To make available to the Ukrainian Museum and Archives the USIA television program “Windows on America”.

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

SECTION 1. AVAILABILITY OF USIA TELEVISION PROGRAM “WINDOW ON AMERICA”.

(a) IN GENERAL.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),¹ the Director of the United States Information Agency is authorized to make available, upon request, to the Ukrainian Museum and Archives in Cleveland, Ohio and the Slavics Collection, Indiana University Libraries in Bloomington, Indiana, copies of the television program “Window on America” produced by the WORLDNET Television Service of the United States Information Agency.

(b) LIMITATION.—The Ukrainian Museum and Archives and the Slavics Collection are prohibited from broadcasting any materials made available pursuant to this Act.

(c) REIMBURSEMENT.—The Ukrainian Museum and Archives and the Slavics Collection shall reimburse the Director of the United States Information Agency for any expenses involved in making such copies available. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.

(d) TERMINATION.—Subsection (a) shall cease to have effect 5 years after the date of the enactment of this Act.

¹See also sec. 501 of the United States Information and Educational Exchange Act of 1948, and related box note, beginning at page 1228.

t. Reorganization Plan No. 8 of 1953¹

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended

Effective August 1, 1953, 18 F.R. 4542, 67 Stat. 642, as amended by Act of June 28, 1955 (69 Stat. 183); Reorganization Plan No. 2 of 1977 (October 11, 1977), 42 F.R. 62461, 91 Stat. 1636

UNITED STATES INFORMATION AGENCY

SEC. 2. *Transfer of functions.*—(a) Subject to subsection (c) of this section, there are hereby transferred to the Director, (1) the functions vested in the Secretary of State by Title V of the United States Information and Educational Exchange Act of 1948, as amended, and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act as is an integral part of information programs under that Act, together with so much of the functions vested in the Secretary of State by other provisions of the said Act as is incidental to or is necessary for the performance of the functions under Title V and sections 202 and 203 transferred by this section.

(b) * * * [Superseded—1978]

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

¹ 22 U.S.C. 1461 note. Much of Reorganization Plan No. 8 of 1953 was superseded by Reorganization Plan No. 2 of 1977. The retained provisions of the 1953 plan are included here. See following page for text of the 1977 plan.

u. Reorganization Plan No. 2 of 1977¹

42 F.R. 62461, 91 Stat. 1636, October 11, 1977; amended by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999; and by Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977, pursuant to the provisions of chapter 9 of title 5 of the United States Code

INTERNATIONAL COMMUNICATION AGENCY²

Section 1-6.¹ * * * [Repealed—1998]

Section 7. Transfer of Functions

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431-1479), except to the extent that any function in sections 302, 401, or 602 is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108; (B) to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f); and (C) to the ex-

¹ Formerly at 22 U.S.C. 1461 note. Sec. 1336(6) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 1 through 6.

² "United States Information Agency" was substituted for "International Communication Agency" pursuant to sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: "Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a)."

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

tent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c).

(3) Public Law 90-494 (22 U.S.C. 929-932, 1221-1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency;

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93-168;

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorizations Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 844; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1011(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c.138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89-665, as amended by section 201(5) of Public Law 94-422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95-86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440-41;

(17) The twentieth unnumbered paragraph of title I of Public Law 95-86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c.301, 63 Stat. 408 (22 U.S.C. 2681-2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and non-political character of educational and cultural exchange activities vested in the Directors are maintained.

Section 8.³ Establishment of the United States Advisory Commission on International Communication, Cultural and Educational Affairs

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Education and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466-1468, 1741(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry

³Sec. 1334(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) repealed sec. 8. Sec. 404(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), amended Public Law 105-277 to provide that sec. 8 "shall continue to exist and operate under such provisions of law until October 1, 2001". Sec. 404(c) of Public Law 106-113, however, repealed sec. 8, effective September 30, 2001. Subsequently, sec. 407(c) of the State Department Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790), reenacted into law those provisions, including sec. 8, struck out by sec. 404(c) of Nance/Donovan, thus restoring sec. 8 to current law.

out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c)⁴ The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.

Section 9. Abolitions and Supersessions

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c.143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466-1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c.841, 70 Stat. 890 (22 U.S.C. 2670(e)).

⁴Sec. 204(c) of Public Law 101-246 (104 Stat. 50) provided that "Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board." Subsec. (c) formerly read as follows:

"(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO."

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

Section 10. Other Transfers

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 11. Effective Date

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

v. Coordination of United States Government International Exchanges and Training Programs

Executive Order 13055, July 15, 1997, 62 F.R. 39099, U.S.C. 2460 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the coordination of United States Government International Exchanges and Training Programs, it is hereby ordered as follows:

Section 1. There is hereby established within the United States Information Agency a senior-level Interagency Working Group on United States Government-Sponsored International Exchanges and training ("the Working Group"). The purpose of the Working Group is to recommend to the President measures for improving the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training. The Working Group shall establish a clearinghouse to improve data collection and analysis of international exchanges and training.

Sec. 2. The term "Government-sponsored international exchanges and training" shall mean the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

Sec. 3. the Working Group shall consist of the Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair, and a comparable senior representative appointed by the respective Secretary of each of the Departments of State, Defense, Education, and the Attorney General, by the Administrator of the United States Agency for International Development, and by heads of other interested executive departments and agencies. In addition, representatives of the National Security Council and the Director of the Office of Management and Budget shall participate in the Working Group at their discretion. The Working Group shall be supported by an interagency staff office established in the Bureau of Education and Cultural Affairs of the United States Information Agency.

Sec. 4. The Working Group shall have the following responsibilities:

(a) Collect, analyze, and report data provide by all United States Government departments and agencies conducting international exchanges and training programs;

(b) Promote greater understanding of and cooperation on, among concerned United States Government departments and agencies, common issues and challenges faced in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors;

(c) In order to achieve the most efficient and cost-effective use of Federal resources, identify administrative and programmatic duplication and overlap of activities by the various United States Government agencies involved in Government-sponsored international exchange and training programs, and report thereon;

(d) No later than 1 year from the date of this order, develop initially and thereafter assess annually a coordinated strategy for all United States Government-sponsored international exchange and training programs, and issue a report on such strategy;

(e) No later than 2 years from the date of this order, develop recommendations on performance measures for all United States Government-sponsored international exchange and training programs, and issue a report thereon; and

(f) Develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

Sec. 5. All reports prepared by the Working Group pursuant to section 4 shall be made to the President, through the Director of the United States Information Agency.

Sec. 6. The Working Group shall meet on at least a quarterly basis.

Sec. 7. Any expenses incurred by a member of the Working Group in connection with such member's service on the Working Group shall be borne by the member's respective department or agency.

Sec. 8. If any member of the Working Group disagrees with respect to any matter in any report prepared pursuant to section 4, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

Sec. 9. Nothing in this Executive order is intended to alter the authorities and responsibilities of the head of any department or agency.

w. International Communication Agency

Executive Order 12048, March 27, 1978, 43 F.R. 13361, 5 U.S.C. Appendix; as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

INTERNATIONAL COMMUNICATION AGENCY¹

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 11 of Reorganization Plan No. 2 of 1977 (42 FR 62461 (December 13, 1977)), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the establishment of the International Communication Agency, it is hereby ordered as follows:

Sec. 1. (a) Reorganization Plan No. 2 of 1977 (42 FR 62461), which establishes the International Communication Agency, except for Section 7(a)(14) thereof, is hereby effective.

(b) Section 7(a)(14) of Reorganization Plan No. 2 of 1977, relating to the Woodrow Wilson Memorial Act of 1968, shall be effective on July 1, 1978.

Sec. 2. The functions vested in the Secretary of State by Executive Order No. 11312² are assigned and redelegated to the Director of the International Communication Agency. All authority vested in the United States Information Agency or its Director by Executive Order is reassigned and redelegated to the International Communication Agency or its Director, respectively.

Sec. 3. In order to ensure appropriate coordination among the Executive agencies, the Director of the International Communication Agency shall exercise primary responsibility for Government-wide policy guidance for international informational, educational, and cultural activities, including exchange programs. The Director shall take into account the statutory functions of the other concerned Executive agencies.

¹22 U.S.C. 1461 note. Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency. See sec. 10 of this order.

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

²Executive Order 11312 was revoked by Executive Order 12047, effective April 1, 1978.

Sec. 4. The Director of the International Communication Agency, with the assistance of the Secretary of Education, shall prepare and submit to the President the reports which the President is to transmit to the Congress pursuant to Section 108(b) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2458).

Sec. 5. The functions vested in the President by Sections 108(c) and 108(d) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, are delegated to the Director of the International Communication Agency; because, (a) such a delegation is in the interest of the purposes expressed in that Act and the efficient administration of the programs undertaken pursuant thereto, (b) the Director is an appropriate official to perform those functions, and (c) those functions are not now delegated to any other officer of the Government.

Sec. 6. The Director of the International Communication Agency shall be the principal adviser to the President, the National Security Council, and the Secretary of State on international informational, educational, and cultural matters. As such, the Director shall provide advice within the policy formulation activities of the National Security Council when such matters are considered. The Director shall ensure that the senior official of the Agency at each diplomatic mission provides advice to the Chief of Mission on such matters. The scope of the Director's advice shall include assessments of the impact of actual and proposed United States foreign policy decisions on public opinion abroad.

Sec. 7. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned, or redelegated as provided in this Order, are hereby transferred to the Director of the International Communication Agency.

Sec. 8. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions, necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

Sec. 9. This Order shall be effective on April 1, 1978.

Sec. 10.³ In accord with the name change provisions of Section 303 of Public Law 97-241 and effective on August 24, 1982, references in this Order to the International Communication Agency shall be deemed to be references to the United States Information Agency.

³Sec. 10 was added by sec. 2 of Executive Order 12388.

x. Authority of Director, United States Information Agency¹

Executive Order 10477, August 1, 1953, 18 F.R. 4540, 22 U.S.C. 1472 note; as amended by Executive Order 10822, May 20, 1959, 24 F.R. 4159; and by Executive Order 12292, February 23, 1981, 46 F.R. 13967.

Authorizing the Director of the United States Information Agency To Exercise Certain Authority Available by Law to the Secretary of State and the Director of the Foreign Operations Administration

By virtue of the authority vested in me by section 2(d) of Reorganization Plan No. 8 of 1953, and as President of the United States, it is ordered as follows:

Section 1. Determination. It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

Sec. 2.² [Revoked—1981]

Sec. 3. Authority under various other statutes. The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U.S.C. 170 a, b, and c), regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U.S.C. 1201, par. 1628), regarding the importation of sound recordings.

(d) The provisions under the first heading “Salaries and Expenses” of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5)

¹Sec. 1311 of division G of Public Law 105–277 (112 Stat. 2681–776) abolished the USIA (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) and sec. 1312 of that Act transferred relevant authority to the Secretary of State.

²Executive Order 12292 (46 F.R. 13967) revoked sec. 2, which pertained to authority under the Foreign Service Act and related laws.

examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies, and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, ground, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad (22 U.S.C. 291).

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543) (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority to the chief of each information Field Staff to approve, with the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105 of the General Provisions of the Department of State Appropriation Act, 1954, and (4) purchase with foreign currencies for use abroad of passenger motor vehicles (exclusive of buses, ambulances, and station wagons) at a cost not to exceed the equivalent of \$2,200 for each vehicle (section 106 of the General Provisions of the Department of State Appropriation Act, 1954).

(f) Section 202 of the Revised Statutes of the United States (5 U.S.C. 156), so far as it authorizes the Secretary of State to keep the American public informed about the international information aspects of the United States foreign affairs.

(g) Section 504(d) of the Mutual Security Act of 1951, as amended (relating to reduction in personnel), with respect to personnel transferred from the Mutual Security Agency or the Foreign Operations Administration to the United States Information Agency.

(h) Section 161 of the Revised Statutes of the United States (5 U.S.C. 301) and section 4 of the act of May 26, 1949 (5 U.S.C. 151c), regarding the promulgation of rules and regulations and the delegation of authority.

Sec. 4. Effective date. This order shall become effective on August 1, 1953.

2. Mutual Educational and Cultural Exchange Act and Related Materials

a. Mutual Educational and Cultural Exchange Act of 1961, as amended (Fulbright-Hays Act)

Public Law 87-256 [H.R. 8666], 75 Stat. 527, approved September 21, 1961; as amended by Public Law 87-565 [Foreign Assistance Act of 1962, S. 2996], 76 Stat. 255, approved August 1, 1962; Public Law 87-793 [H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 89-698 [H.R. 14263], 80 Stat. 1066, approved October 29, 1966; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 973, approved October 7, 1978; Public Law 96-60 [ICA Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363] 93 Stat. 395 at 398, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 96-470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 98-164 [Foreign Relations Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-54 [Veterans Programs for Housing and Memorial Affairs Amendments; H.R. 232], 105 Stat. 267, approved June 13, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; subdivision B of division G of H.R. 4328], 112 Stat. 2681-801, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; and by Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

AN ACT To provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Mutual Educational and Cultural Exchange Act of 1961.”

SEC. 101.¹ STATEMENT OF PURPOSE.—The purpose of this Act is to enable the Government of the United States to increase mutual understanding between the people of the United States and the

¹22 U.S.C. 2451. Sec. 107 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845), called for a strengthening of educational exchange programs. See that section for text of the congressional findings and reference to a report due from State Department regarding these programs.

people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

SEC. 102.² (a) The President³ is authorized, when he considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for—

(1) educational exchanges, (i) by financing studies, research, instructions, and other educational activities—

(A) of or for American citizens and nationals in foreign countries, and

(B) of or for citizens and nationals of foreign countries in American schools and institutions of learning located in or outside the United States;

and (ii) by financing visits and interchanges between the United States and other countries of students, trainees, teachers, instructors, and professors;

(2) cultural exchanges, by financing—

(i) visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons;

(ii) tours in countries abroad by creative and performing artists and athletes from the United States, individually

² 22 U.S.C. 2452.

See also sec. 602 of Public Law 101-610. See also Public Law 102-138, sec. 210 (Claude and Mildred Pepper Scholarship Program), sec. 214 (Israeli Arab Scholarship Program), sec. 225 (Eastern Europe Student Exchange Endowment Fund), sec. 226 (Enhanced Educational Exchange Program), sec. 227 (law and business training), sec. 228 (Near and Middle East research and training), and sec. 229 (scholarships for Vietnamese).

See also sec. 807 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353).

See also sec. 102 (leaders in human rights and democracy movements) and sec. 103 (exchanges and scholarships for Tibetans and Burmese) of Public Law 104-319.

See also sec. 3011 of Public Law 106-31 (Russian Leadership Program); secs. 301-306 of Public Law 106-309 (International Academic Opportunity Act of 2000); and title II of H.R. 5666, as enacted by reference in sec. 1(a)(4) of Public Law 106-554 (Vietnam Education Foundation Act of 2000).

³ Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this section except for those in subssecs. (b)(6) and (b)(10) were transferred to the Director of the International Communication Agency.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

and in groups, representing any field of the arts, sports, or any other form of cultural attainment;

(iii) United States representation in international artistic, dramatic, musical, sports, and other cultural festivals, competitions, meetings, and like exhibitions and assemblies;

(iv) participation by groups and individuals from other countries in nonprofit activities in the United States similar to those described in subparagraphs (ii) and (iii) of this paragraph, when the President³ determines that such participation is in the national interest.

(3)⁴ United States participation in international fairs and expositions abroad, including trade and industrial fairs and other public or private demonstrations of United States economic accomplishments and cultural attainments.

(b) In furtherance of the purposes of this Act, the President³ is further authorized to provide for—

(1) interchanges between the United States and other countries of handicrafts, scientific, technical, and scholarly books, books of literature, periodicals, and Government publications, and the reproduction and translation of such writings, and the preparation, distribution, and interchange of other educational and research materials, including laboratory and technical equipment for education and research;

(2) establishing and operating in the United States and abroad centers for cultural and technical interchanges to promote better relations and understanding between the United States and other nations through cooperative study, training, and research;

(3) assistance in the establishment, expansion, maintenance, and operation of schools and institutions of learning abroad, founded, operated, or sponsored by citizens or nonprofit institutions of the United States, including such schools and institutions serving as demonstration centers for methods and practices employed in the United States;

(4) fostering and supporting American studies in foreign countries through professorships, lectureships, institutes, seminars, and courses in such subjects as American history, government, economics, language and literature, and other subjects related to American civilization and culture, including financing the attendance at such studies by persons from other countries;

(5) promoting and supporting medical, scientific, cultural, and educational research and development;

(6) promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers

⁴This paragraph was amended by sec. 403 of Public Law 87-565 (76 Stat. 263; approved August 1, 1962), inserting the word "abroad" after the word "expositions." The intent of Congress, as stated in the conference report (House Report 2008, 87th Congress) was to make clear that U.S. participation in fairs is limited to fairs held abroad and to conform to the long-established practice by which Congress authorizes on an individual basis U.S. participation in major fairs held in the United States. The amendment excepted U.S. participation in fairs or expositions for which an appropriation had already been provided, specifically participation in the New York World's Fair of 1964-65 for which funds had been approved. (sec. 403, Public Law 87-565.)

and prospective teachers in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities;

(7) United States representation at international nongovernmental educational, scientific, and technical meetings;

(8) participation by groups and individuals from other countries in educational, scientific, and technical meetings held under American auspices in or outside the United States;

(9) encouraging independent research into the problem of educational and cultural exchange;

(10)⁵ promoting studies, research, instruction, and other educational activities of citizens and nationals of foreign countries in American schools, colleges, and universities located in the United States by making available to citizens and nationals of less developed friendly foreign countries for exchange for currencies of their respective countries (other than excess foreign currencies), at United States embassies, United States dollars in such amounts as may be necessary to enable such foreign citizens or nationals who are coming temporarily to the United States as students, trainees, teachers, instructors, or professors to meet expenses of the kind described in section 104(e)(1) of this Act,⁶

(11)⁷ interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management; and⁶

(12)⁶ promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.

SEC. 103.⁸ (a) The President³ is authorized to enter into agreements with foreign governments and international organizations, in furtherance of the purposes of this Act. In such agreements the President³ is authorized, when he deems it in the public interest, to seek the agreement of the other governments concerned to cooperate and assist, including making use of funds placed in special accounts pursuant to agreements concluded in accordance with section 115(b)(6) of the Economic Cooperation Act of 1948, or any simi-

⁵ Paragraph (10) was added by sec. 203(a) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1071).

⁶ Sec. 503 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) struck out "and" at the end of para. (10); replaced a period at the end of para. (11) with "; and", and added a new para. (12).

⁷ Paragraph 11 was added by sec. 703(a) of Public Law 98-164 (97 Stat. 1045). Sec. 703(b) of Public Law 98-164 specified the following:

"(b) Of the amount by which expenditures for the Fulbright Academic Exchange Programs, for the Humphrey Fellowship Program, and for the International Visitor Program for each of the fiscal years 1984 and 1985 exceeds the expenditures for these programs in fiscal year 1982, 5 percent shall be used to finance programs authorized by the amendment made by subsection (a) of this section."

⁸ 22 U.S.C. 2453.

lar agreements,⁹ in providing for the activities authorized in sec-

⁹The Economic Cooperation Act of 1948, as amended, was repealed by sec. 542(a) of the Mutual Security Act of 1954. Sec. 115(b)(6) and (h) of the former Act were replaced by sec. 142(b) of the latter Act. Sec. 142(b) of the Mutual Security Act of 1954, as amended, was in turn repealed by the Foreign Assistance Act of 1961, Public Law 87-195 (75 Stat. 424), and replaced by sec. 609 of Public Law 87-195. Sec. 609 of Public Law 87-195, in turn, was superseded by sec. 592 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), then by sec. 575 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513), which was extended into fiscal year 1992 by a continuing resolution (sec. 106, Public Law 102-145; 105 Stat. 968), further continued for fiscal year 1994 in sec. 537 of Public Law 103-87, for fiscal year 1995 in sec. 536 of Public Law 103-306, for fiscal year 1996 in sec. 532 of Public Law 104-107, for fiscal year 1997 in sec. 531 of Public Law 104-208, for fiscal year 1998 in sec. 532 of Public Law 105-118, for fiscal year 1999 in sec. 533 of Public Law 105-277, for fiscal year 2000 in sec. 532 of H.R. 3422, enacted by reference in Public Law 106-113; and for fiscal year 2001 in sec. 532 of H.R. 5526, enacted by reference in Public Law 106-429.

Most recently, sec. 532 of H.R. 5526, enacted by reference in 101(a) of Public Law 106-429, provided the following:

“SEPARATE ACCOUNTS

“SEC. 532. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

“(A) require that local currencies be deposited in a separate account established by that government;

“(B) enter into an agreement with that government which sets forth—

“(i) the amount of the local currencies to be generated; and

“(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

“(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

“(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

“(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

“(i) project and sector assistance activities; or

“(ii) debt and deficit financing; or

“(B) for the administrative requirements of the United States Government.

“(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

“(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

“(5) REPORTING REQUIREMENT.—The Administrator of the Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

“(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

“(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98-1159).

“(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

Continued

tion 102, and particularly those authorized in subsection 102(a)(1), of this Act with respect to the expenses of international transportation of their own citizens and nationals and of activities in furtherance of the purposes of this Act carried on within the borders of such other nations.

(b) Such agreements may also provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purpose of administering programs in furtherance of the purposes of this Act.

(c) In such agreements with international organizations, the President³ may provide for equitable United States participation in and support for, including a reasonable share of the cost of, educational and cultural programs to be administered by such organizations.

SEC. 104.¹⁰ (a) The President may delegate, to such officers of the Government as he determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act: *Provided*, That where the President has delegated any of such powers to any officer, before the President implements any proposal for the delegation of any of such powers to another officer, that proposal shall be submitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, and thereafter a period of not less than sixty days shall have elapsed while Congress is in session. In computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(b)¹¹ The President is authorized to employ such other personnel as he deems necessary to carry out the provisions and purposes of this Act, and of such personnel not to exceed ten may be compensated without regard to the provisions of the Classification Act of 1949, as amended,¹² but not in excess of the highest rate of grade 18 of the general schedule established by such Act. Such positions shall be in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.¹³

(c)¹⁴ * * * [Repealed—1981]

(d) For the purpose of performing functions under this Act outside the United States, the President³ is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the President³ may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are

⁴(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.”

¹⁰ 22 U.S.C. 2454.

¹¹ This subsection was amended and restated by sec. 1001(j) of Public Law 87-793 (76 Stat. 865).

¹² 5 U.S.C. 5101 et seq.

¹³ 5 U.S.C. 5332(a).

¹⁴ Subsec. (c), which authorized the Secretary of State to employ or assign persons in or to the Foreign Service Reserve or Foreign Service Staff and alien clerks and employees for the purpose of performing functions under this Act outside of the United States, was repealed by sec. 2205(7) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

provided by section 310 of the Foreign Service Act of 1980, for individuals appointed to the Foreign Service.¹⁵

(e)(1) In providing for the activities and interchanges authorized by section 102 of this Act, grants may be made to or for individuals, either directly or through foundations or educational or other institutions, which foundations or institutions are public or private nonprofit, and may include funds for tuition and other necessary incidental expenses, for travel expenses from their places of residence and return for themselves, and, whenever it would further the purposes of this Act, for the dependent members of their immediate families, for health and accident insurance premiums, emergency medical expenses, costs of preparing and transporting to their former homes the remains of any of such persons who may die while away from their homes as participants or dependents of participants in any program under this Act, and for per diem in lieu of subsistence at rates prescribed by the Director of the International Communication Agency,¹⁶ for all such persons, and for such other expenses as are necessary for the successful accomplishment of the purposes of this Act.

(2) Funds available for programs under this Act may be used (i) to provide for orientation courses, language training, or other appropriate services and materials for persons traveling out of the countries of their residence for educational and cultural purposes which further the purposes of this Act, whether or not they are receiving other financial support from the Government, and (ii) to provide or continue services to increase the effectiveness of such programs following the return of such persons to the countries of their residence.

(3) For the purpose of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements, by contract or otherwise, for the establishment and maintenance at colleges and universities in the United States attended by foreign students of an adequate counseling service.

(4) The President is authorized to provide for publicity and promotion (including representation) abroad of activities of the type

¹⁵The reference to sec. 310 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 528 of the Foreign Service Act of 1946 by sec. 2206(9) of Public Law 96-465 (94 Stat. 2162).

¹⁶This reference to the Director of the Agency was substituted in lieu of a reference to the President by sec. 204(a) of Public Law 95-426 (92 Stat. 973). Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776), however, abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

provided for in this Act, and of similar services and opportunities for interchange not supported by the United States Government.¹⁷

(f)¹⁸ * * * [Repealed—1979]

(g)¹⁹ (1) For the purpose of performing functions authorized by section 102(b)(10) of this Act, the President is authorized to establish the exchange rates at which all foreign currencies may be acquired through operations under such section, and shall issue regulations binding upon all embassies with respect to the exchange rates to be applicable in each of the respective countries where currency exchanges are authorized under such section.

(2) In performing the functions authorized under section 102(b)(10) of this Act, the President shall make suitable arrangements for protecting the interests of the United States Government in connection with the ownership, use, and disposition of all foreign currencies acquired pursuant to exchanges made under such section.

(3) The total amount of United States dollars acquired by any individual through currency exchanges under the authority of section 102(b)(10) of this Act shall in no event exceed \$3,000 during any academic year.

(4) An individual shall be eligible to exchange foreign currency for United States dollars at United States embassies under section 102(b)(10) of this Act only if he gives satisfactory assurances that (A) he will devote essentially full time to his proposed educational activity in the United States and will maintain good standing in relation to such program; (B) he will return to the country of his citizenship or nationality prior to coming to the United States and will render such public service as is determined acceptable for a period of time determined reasonable and necessary by the government of such country; and (C) he will not apply for an immigrant visa or for permanent residence or for a nonimmigrant visa under the Immigration and Nationality Act after having received any benefits under such section for a period of time equal to the period of study, research, instruction, or other educational activity he performed pursuant to such section.

(5) As used in section 102(b)(10) of this Act, the term “excess foreign currencies” means foreign currencies, which if acquired by the United States (A) would be in excess of the normal requirements of departments, agencies, and embassies of the United States for such currencies, as determined by the President, and (B) would be available for the use of the United States Government under applicable agreements with the foreign country concerned.

SEC. 105.²⁰ (a) Amounts appropriated to carry out the purposes of this Act are authorized to be made available until expended.

¹⁷Sec. 231 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 424), added “, and of similar services and opportunities for interchange not supported by the United States Government” at the end of par. (4).

¹⁸Subsec. (f), which required that all persons employed or assigned duties under this Act be investigated with respect to loyalty and suitability, was repealed by sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398).

¹⁹Subsec. (g) was added by sec. 203(b) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1071).

²⁰22 U.S.C. 2455. Sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), amended and restated subsec. (a). It formerly read as follows:

“(a) Appropriations to carry out the purposes of this Act, to remain available until expended, are hereby authorized, and this authorization includes the authority to grant, in any appropria-

(b) Funds appropriated for programs under this Act may, without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), be used for the acquisition from any source of foreign currencies in such amounts as may be necessary for current expenditures and for grants, including grants to foundations and commissions in accordance with international agreements providing for the accomplishment of the purposes of this Act.

(c) Moneys appropriated to any department or agency of the Government in furtherance of the purposes of this Act for research, technical aid, and educational and cultural programs, may be transferred by the President to any other appropriation available for like purposes, but no appropriation authorized by this Act shall be increased or decreased by more than 10 per centum by reason of transfers pursuant to this paragraph.

(d) The President is authorized—

(1) to reserve in such amounts and for such periods as he shall determine to be necessary to provide for the programs authorized by subsections 102(a)(1) and 102(a)(2)(i), and

(2) notwithstanding the provisions of any other law, to use in such amounts as may from time to time be specified in appropriation Acts, to the extent that such use is not restricted by agreement with the foreign nations concerned, for any programs authorized by this Act,

any currencies of foreign nations received or to be received by the United States or any agency thereof—

(i) under agreements disposing of surplus property or settling lend-lease and other war accounts concluded after World War II;

(ii) as the proceeds of sales or loan repayments, including interests, for transactions heretofore or hereafter effected under the Agricultural Trade Development and Assistance Act of 1954, as amended;

(iii) in repayment of principal or interest on any other credit extended or loan heretofore or hereafter made by the United States or any agency thereof; or

(iv) as deposits to the account of the United States pursuant to section 115(b)(6) or section 115(h) of the Economic Cooperation Act of 1948, as amended, or any similar provision of any other law.⁹

(e) The President³ is further authorized to reserve and use for educational and cultural exchange programs and other activities authorized in subsections 102 (a) and (b) of this Act, in relation to Finland and the people of Finland, all sums due or paid on and after August 24, 1949, by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the Act of February 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to the authority contained in the Act of February 9, 1922, or of any other indebtedness incurred by that Republic and owing to the United States as a result of World War I.

⁹tion Act, the authority to enter into contracts, within the amounts so authorized, creating obligations in advance of appropriations.”

(f) Foreign governments, international organizations and private individuals, firms, associations, agencies, and other groups shall be encouraged to participate to the maximum extent feasible in carrying out this Act and to make contributions of funds, property, and services which the President is hereby authorized to accept, to be utilized to carry out the purposes of this Act. Funds made available for the purposes of this Act may be used to contribute toward meeting the expenses of activities carried out through normal private channels, by private means, and through foreign governments and international organizations.

(g)²¹ Notwithstanding any other provision of this Act, there are authorized to be appropriated for the purposes of making currency exchanges under section 102(b)(10) of this Act, not to exceed \$10,000,000 for the fiscal year ending June 30, 1968, and not to exceed \$15,000,000 for the fiscal year ending June 30, 1969.

SEC. 106.²² (a)(1) For the purpose of selecting students, scholars, teachers, trainees, and other persons to participate in the programs authorized under section 102(a)(1) of this Act, and of supervising such programs and the programs authorized under section 102(b)(4) and (6), there is hereby continued the authority of the President to appoint a board of foreign scholarships which shall be known as the "J. William Fulbright Foreign Scholarship Board"²³ (hereinafter referred to as the "Board") consisting of twelve members. In connection with appointments to such Board, due consideration shall be given to the selection of distinguished representatives of cultural, educational, student advisory, and war veterans groups, and representatives of the United States Office of Education, the United States Department of Veterans Affairs,²⁴ public and private nonprofit educational institutions.

(2) In the selection of American citizens for participation in programs under this Act, preference shall be given to those who have served in the Armed Forces of the United States, and due consideration shall be given to applicants from all geographical areas of the United States.

(b)(1) The United States Advisory Commission on International Educational and Cultural Affairs²⁵ (hereinafter referred to as the "Commission") is hereby established to replace the United States Advisory Commission on Educational Exchange. The Commission shall formulate and recommend to the President policies for exer-

²¹Subsec. (g) was added by sec. 203(c) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1072).

²²22 U.S.C. 2456.

²³Sec. 204(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 49), struck out "Board of Foreign Scholarships" and inserted in lieu thereof "board of foreign scholarships which shall be known as the 'J. William Fulbright Foreign Scholarship Board'".

Sec. 204(b) of that Act provided that each member appointed to the Board of Foreign Scholarship before enactment of Public Law 101-246 (February 16, 1990) shall complete their term of appointment.

Sec. 204(c) of that Act provided that "Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board."

²⁴Sec. 13(h)(1) of Public Law 102-54 (105 Stat. 275) struck out "Veterans' Administration" and inserted in lieu thereof "Department of Veterans Affairs".

²⁵The functions vested in this commission were consolidated and vested in a new United States Advisory Commission on International Communication, Cultural and Educational Affairs, pursuant to sec. 8(b) of Reorganization Plan No. 2 of 1977 (such new commission was redesignated as the U.S. Advisory Commission on Public Diplomacy in 1979).

cising his authority under this Act and shall appraise the effectiveness of programs carried out pursuant to it. The Commission shall make a special study of the effectiveness of past programs with emphasis on the activities of a reasonably representative cross section of past recipients of aid and shall submit a report to the Congress not later than December 31, 1962.

(2) The Commission shall consist of nine members who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Commission shall be appointed on a nonpartisan basis.

(3) The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(4) The term of each member shall be three years except that, of the first nine appointments, three shall be for a term of one year and three shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

(5) The President shall designate a Chairman from among members of the Commission.

(6) The Commission is authorized to adopt such rules and regulations as it may deem necessary to carry out the authority conferred upon it by this Act.

(c)²⁶ * * * [Repealed—1998]

(d) The President is authorized to create such interagency and other advisory committees as in his judgment may be of assistance in carrying out the purposes of this Act, and from time to time to convene conferences of persons interested in educational and cultural affairs to consider matters relating to the purposes of this Act.

(e) The provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691), shall be applicable to any interagency committee created pursuant to the provisions of this Act. Members of the Commission, the Committee, and other committees provided for in this section shall be entitled (i) to transportation expenses and per diem in lieu of subsistence at the rate prescribed by or established pursuant to section 5 of the Administrative Expense Act of 1946, as amended (5 U.S.C. 73b-2), while away from home in connection with attendance at meetings or in consultation with officials of the Government or otherwise carrying out duties as authorized, and (ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of \$50 per diem while performing services for Commission, Committee, or other committee. Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the Director

²⁶Sec. 1336(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed subsec. (c), which had continued the Advisory Committee on the Arts, originally created under section 10 of the International Cultural Exchange and Trade Fair Participation Act of 1956.

of the International Communication Agency,²⁷ not in excess of the daily rate for the first step of GS-15 of the General Schedule under section 5332 of title 5, United States Code.²⁸

(f) The President is authorized to provide for necessary secretarial and staff assistance for the Board, the Commission, the Committee, and such other committees as may be created under this section.

SEC. 107.²⁹ The Board, the Commission, and the Committee shall submit annual reports to the Congress and such other reports to the Congress as they deem appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs authorized by this Act.

SEC. 108.³⁰ (a)(1)³¹ Whenever the President determines it to be in furtherance of this Act, the functions authorized in section 102(a) (2) and (3) may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify.

(2)³¹ Notwithstanding any other provision of law, the Director of the International Communication Agency²⁷ may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this Act when such services are requested by a department or executive agency. Reimbursements under this paragraph shall be credited to the applicable appropriation of the Agency.

(b)³² The President shall submit periodic reports to the Congress of activities carried on and expenditures made in furtherance of the purposes of this Act and of the United States Information and Educational Exchange Act of 1948, as amended.

(c) In connection with activities authorized by section 102(a) (2) and (3) of this Act, the President is authorized to provide for all necessary expenditures involved in the selection, purchase, rental, construction, or other acquisition of exhibits and materials and equipment therefor, and the actual display thereof, including but

²⁷Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.". See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

²⁸This sentence was added (effective October 1, 1979) by sec. 205 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 401). Previously, the entitlements of members of the Board were included under clauses (i) and (ii).

²⁹22 U.S.C. 2457.

³⁰22 U.S.C. 2458.

³¹Paragraph designation "(1)" and a new par. (2) were added by sec. 203(d) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399).

³²Subsec. (b) was amended and restated by sec. 212(a) of Public Law 96-470 (94 Stat. 2246). The report required under subsec. (b) previously had been required annually.

not limited to costs of transportation, insurance, installation, safekeeping and storage, maintenance and operation, rental of space, and dismantling.

(d) The President is authorized to utilize the provisions of title VIII of the United States Information and Educational Exchange Act of 1948, as amended, to the extent he deems necessary in carrying out the provisions and purposes of this Act.

SEC. 108A.³³ (a)(1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such Federal employee in a cultural exchange—

(A) which is of the type described in section 102(a)(2)(i) of this Act,

(B) which is conducted for a purpose comparable of the purpose stated in section 101 of this Act, and

(C) which is specifically approved by the Secretary of State for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

(2) For purposes of this section, the term “Federal employee” means any employee as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5 of the United States Code, but does not include a person described in subparagraph (G) of such section.

(b) The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5 of the United States Code.

(c) The Secretary of State is authorized to promulgate regulations for purposes of this section.

SEC. 109.³⁴ * * *

SEC. 110.³⁵ * * *

SEC. 111. (a) There are hereby repealed—

(1) Section 32(b)(2) of the Surplus Property Act of 1944, as amended (60 Stat. 754, 50 U.S.C. App. Sec. 1641);

(2) Sections 2(2), 201, 203 insofar as it relates to schools, 601, 602, and 603 insofar as they relate to the Advisory Commission on Education Exchange, 1001 insofar as it relates to persons employed or assigned to duties under this Act, and 1008 and 1009 insofar as they relate to educational exchange activities, of the United States Information and Educational Exchange Act of 1948, as amended (62 Stat. 6; 22 U.S.C. sections 1431(2); 1434, 1439, 1440, 1446, 1448, 1466, 1467, and 1468);

(3) The International Cultural Exchange and Trade Fair Participation Act of 1956 (70 Stat. 778; 22 U.S.C. 1991-2001);

³³ 22 U.S.C. 2458a. Sec. 108A was added by sec. 111 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

³⁴ Sec. 109 contained amendments to the Immigration and Nationality Act.

³⁵ Sec. 110 contained amendments to the Internal Revenue Code of 1954 (now the IRC of 1986) and the Social Security Act.

(4) The joint resolution of August 24, 1949, authorizing the use of Finnish World War I debt payments available for educational and technical instruction, and so forth (63 Stat. 630; 20 U.S.C. 222-224).

(b) All Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of any provisions of law repealed by subsection (a) of this section shall continue in full force and effect and shall be applicable to the appropriate provisions of this Act until modified or superseded by appropriate authority.

(c) Any reference in any other Act to the provisions of law listed in subsection (a) shall hereafter be considered to be references to the appropriate provisions of this Act.

SEC. 112.³⁶ (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 102(a)(1) of this Act;

(2) the Hubert H. Humphrey Fellowship Program which finances (A) study at American universities and institutions of higher learning, including study in degree granting programs, and (B) participation in fellowships, internships, or other programs in American governmental and nongovernmental institutions for public managers and other individuals from developing countries;

(3) the International Visitors Program which provides grants for short-term visits to the United States for foreign nationals who are, or have the potential to be, leaders in their respective fields in their own countries;

(4) the American Cultural Centers and Libraries which make available at selected foreign locations, books, films, sound recordings, and other materials about the United States, its people and culture, and about other topics;

(5) the American Overseas Schools Program which provides financial assistance to the operations of American-sponsored schools overseas;

(6) the American Studies Program which fosters and supports the study of the United States, and its people and culture, in foreign countries;

(7) a program of working with private, not-for-profit groups through contracts, grants, or cooperative agreements, as authorized by section 102 of this Act, so as to provide financial

³⁶22 U.S.C. 2460. Sec. 213 of the USIA Authorization Act, Fiscal Years 1984 and 1985 (title II of Public Law 98-164; 97 Stat. 1034), added sec. 112 with the exception of paragraphs (8) and (9) which were added respectively by secs. 302 and 303 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1378).

assistance to nongovernmental organizations engaged in implementing and enhancing exchange-of-persons programs;

(8)³⁶ the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the independent states of the former Soviet Union³⁷ and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 101³⁸ of the Higher Education Act of 1965 who have not received their initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the independent states of the former Soviet Union,³⁷ and Eastern European countries;³⁹ and

(9)³⁶ the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.

(b)⁴⁰ (1) All recipients of Fulbright Academic Exchange and Humphrey Fellowship awards shall have full academic and artistic freedom, including freedom to write, publish, and create. No award granted pursuant to this Act may be revoked or diminished on account of the political views expressed by the recipient or on account of any scholarly or artistic activity that would be subject to the protections of academic and artistic freedom normally observed in universities in the United States. The Board shall ensure that the academic and artistic freedoms of all persons receiving grants are protected.

(2) The J. William Fulbright Foreign Scholarship Board shall formulate a policy on revocation of Fulbright grants which shall be made known to all grantees. Such policy shall fully protect the right to due process as well as the academic and artistic freedom of all grantees.

(c)⁴⁰ The President shall insure that all programs under the authority of the Bureau shall maintain their nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. The President shall insure that academic and cultural programs under the authority of the Bureau shall maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement.

(d)⁴⁰ The Bureau shall administer no programs except those operating under the authority of this Act and consistent with its purposes.

³⁷Sec. 301(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "Soviet Union" and inserted in lieu thereof "independent states of the former Soviet Union" in para. (8).

³⁸Sec. 102(a)(7)(B) of the Higher Education Amendments of 1998 (Public Law 105-244; 112 Stat. 1619) struck out "1201(a)" and inserted in lieu thereof "101"; and struck out "(20 U.S.C. 1141(a))" following "Higher Education Act of 1965".

³⁹Sec. 223 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 56), added text to this point from "or through other programs".

⁴⁰Sec. 204(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 50), redesignated subsec.(b) and (c) as (c) and (d), respectively, and added a new subsec. (b).

(e)⁴¹ There is established in the Bureau of Educational and Cultural Affairs an Office of Citizen Exchanges. The Office shall support private not-for-profit organizations engaged in the exchange of persons between the United States and other countries.

(f)⁴² (1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the Director. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

(2) Not later than 90 days after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report pursuant to paragraph (1). Such report shall include information for each exchange program supported by the United States on the objectives of such exchange, the number of exchange participants supported, the types of exchange activities conducted, the total amount of Federal expenditures for such exchanges, and the extent to which such exchanges are duplicative.

(g)⁴³ WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.—(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training, there is established within the United States Information Agency a senior-level interagency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the “Working Group”).

(2) For purposes of this subsection, the term “Government-sponsored international exchanges and training” means the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

(3) The Working Group shall be composed as follows:

(A) The Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair.

(B) A senior representative of the Department of State, who shall be designated by the Secretary of State.

⁴¹ Sec. 222(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 55), added subsec. (e).

Sec. 222(b) of that Act provided that all functions carried out by the Office of Private Sector Programs be transferred to the Office of Citizen Exchanges.

⁴² Sec. 229(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), added subsec. (f). Sec. 229(b) of that Act further provided the following:

“(b) REPORT BY THE DIRECTOR OF USIA.—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

“(1) detailing the range of exchange programs administered by the Agency;

“(2) identifying possible areas of duplication of inefficiency; and

“(3) recommending program consolidation and administrative restructuring as warranted.”

⁴³ Sec. 2414 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832) added subsec. (g).

(C) A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

(D) A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

(E) A senior representative of the Department of Justice, who shall be designated by the Attorney General.

(F) A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

(G) Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the United States Information Agency.

(6) The Working Group shall have the following purposes and responsibilities:

(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors.

(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

(D)(i) Not later than 1 year after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a minimum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

(ii) Not later than 1 year after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i).

(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

(E) Not later than 2 years after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report.

(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

(G) Not later than 6 months after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to report on the feasibility and advisability of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the United States Information Agency. The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity.

(7) All reports prepared by the Working Group shall be submitted to the President, through the Director of the United States Information Agency.

(8) The Working Group shall meet at least on a quarterly basis.

(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member's department or agency.

(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group.

SEC. 113.⁴⁴ EXCHANGES BETWEEN THE UNITED STATES AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—(a) The President is authorized to negotiate and implement agreements with the independent states of the former Soviet Union⁴⁵ under which repayments made by the independent states⁴⁶ on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States and the independent states⁴⁷ for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this Act. Part of the funds repaid to the United

⁴⁴ 22 U.S.C. 2461. Sec. 224 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 56), added sec. 113. Sec. 301(2)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) amended the section caption; it formerly read "UNITED STATES-SOVIET EXCHANGES.—".

⁴⁵ Sec. 301(2)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "an agreement with the Union of Soviet Socialist Republics" and inserted in lieu thereof "agreements with the independent states of the former Soviet Union".

⁴⁶ Sec. 301(2)(C) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "made by the Soviet Union" and inserted in lieu thereof "made by the independent states".

⁴⁷ Sec. 301(2)(D) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "and the Soviet Union" and inserted in lieu thereof "and the independent states".

States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities in the United States by citizens of the independent states.⁴⁸

(b) Funds made available for the purposes of this section shall be available only to the extent and in the amounts provided for in an appropriation Act.

SEC. 114. ⁴⁹ **ALLOCATION OF FUNDS TRANSFERRED TO THE BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS.**

Of each amount transferred to the Bureau of Educational and Cultural Affairs out of appropriations other than appropriations under the heading "Educational and Cultural Exchange Programs" for support of an educational or cultural exchange program, notwithstanding any other provision of law, not more than 7.5 percent shall be made available to cover administrative expenses incurred in connection with support of the program. Amounts made available to cover administrative expenses shall be credited to the appropriations under the heading "Educational and Cultural Exchange Programs" and shall remain available until expended.

⁴⁸Sec. 301(2)(E) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "by Soviet citizens in the United States" and inserted in lieu thereof "in the United States by citizens of the independent states".

⁴⁹22 U.S.C. 2463. Added by sec. 406 of the Department of State Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790).

b. International Academic Opportunity Act of 2000

Partial text of Public Law 106-309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000, H.R. 1143], 114 Stat. 1078 at 1094, approved October 17, 2000

INTERNATIONAL ACADEMIC OPPORTUNITY ACT OF 2000

SEC. 301.¹ SHORT TITLE.

This title may be cited as the “International Academic Opportunity Act of 2000”.

SEC. 302.¹ STATEMENT OF PURPOSE.

It is the purpose of this title to establish an undergraduate grant program for students of limited financial means from the United States to enable such students to study abroad. Such foreign study is intended to broaden the outlook and better prepare such students of demonstrated financial need to assume significant roles in the increasingly global economy.

SEC. 303.² ESTABLISHMENT OF GRANT PROGRAM FOR FOREIGN STUDY BY AMERICAN COLLEGE STUDENTS OF LIMITED FINANCIAL MEANS.

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations and under the authorities of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary of State shall establish and carry out a program in each fiscal year to award grants of up to \$5,000, to individuals who meet the requirements of subsection (b), toward the cost of up to one academic year of undergraduate study abroad. Grants under this Act shall be known as the “Benjamin A. Gilman International Scholarships”.

(b) **ELIGIBILITY.**—An individual referred to in subsection (a) is an individual who—

(1) is a student in good standing at an institution of higher education in the United States (as defined in section 101(a) of the Higher Education Act of 1965);

(2) has been accepted for up to one academic year of study on a program of study abroad approved for credit by the student’s home institution;

(3) is receiving any need-based student assistance under title IV of the Higher Education Act of 1965; and

(4) is a citizen or national of the United States.

(c) **APPLICATION AND SELECTION.**—

(1) Grant application and selection shall be carried out through accredited institutions of higher education in the United States or a combination of such institutions under such procedures as are established by the Secretary of State.

¹ 22 U.S.C. 2462 note.

² 22 U.S.C. 2462 and note.

(2) In considering applications for grants under this section—

(A) consideration of financial need shall include the increased costs of study abroad; and

(B) priority consideration shall be given to applicants who are receiving Federal Pell Grants under title IV of the Higher Education Act of 1965.

SEC. 304.¹ REPORT TO CONGRESS.

The Secretary of State shall report annually to the Congress concerning the grant program established under this title. Each such report shall include the following information for the preceding year:

(1) The number of participants.

(2) The institutions of higher education in the United States that participants attended.

(3) The institutions of higher education outside the United States participants attended during their study abroad.

(4) The areas of study of participants.

SEC. 305.¹ AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$1,500,000 for each fiscal year to carry out this title.

SEC. 306.¹ EFFECTIVE DATE.

This title shall take effect October 1, 2000.

c. Russian Leadership Development—Legislative Branch

Partial text of Public Law 106-554 [Legislative Branch Appropriations Act, 2001; H.R. 5657, as enacted by reference in H.R. 4577], 114 Stat. 2763 at 2763A-121, approved December 21, 2000

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TITLE III—GENERAL PROVISIONS

* * * * *

SEC. 313. CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT.—(a) ESTABLISHMENT.—

(1) **IN GENERAL.**—There is established in the legislative branch of the Government a center to be known as the “Center for Russian Leadership Development” (the “Center”).

(2) **BOARD OF TRUSTEES.**—The Center shall be subject to the supervision and direction of a Board of Trustees which shall be composed of nine members as follows:

(A) Two members appointed by the Speaker of the House of Representatives, one of whom shall be designated by the Majority Leader of the House of Representatives and one of whom shall be designated by the Minority Leader of the House of Representatives.

(B) Two members appointed by the President pro tempore of the Senate, one of whom shall be designated by the Majority Leader of the Senate and one of whom shall be designated by the Minority Leader of the Senate.

(C) The Librarian of Congress.

(D) Four private individuals with interests in improving United States and Russian relations, designated by the Librarian of Congress.

Each member appointed under this paragraph shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term. Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) PURPOSE AND AUTHORITY OF THE CENTER.—

(1) **PURPOSE.**—The purpose of the Center is to establish, in accordance with the provisions of paragraph (2), a program to enable emerging political leaders of Russia at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States.

(2) **GRANT PROGRAM.**—Subject to the provisions of paragraphs (3) and (4), the Center shall establish a program under

which the Center annually awards grants to government or community organizations in the United States that seek to establish programs under which those organizations will host Russian nationals who are emerging political leaders at any level of government.

(3) RESTRICTIONS.—

(A) DURATION.—The period of stay in the United States for any individual supported with grant funds under the program shall not exceed 30 days.

(B) LIMITATION.—The number of individuals supported with grant funds under the program shall not exceed 3,000 in any fiscal year.

(C) USE OF FUNDS.—Grant funds under the program shall be used to pay—

(i) the costs and expenses incurred by each program participant in traveling between Russia and the United States and in traveling within the United States;

(ii) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(iii) such additional administrative expenses incurred by organizations in carrying out the program as the Center may prescribe.

(4) APPLICATION.—

(A) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the Center at such time, in such manner, and accompanied by such information as the Center may reasonably require.

(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

(i) describe the activities for which assistance under this section is sought;

(ii) include the number of program participants to be supported;

(iii) describe the qualifications of the individuals who will be participating in the program; and

(iv) provide such additional assurances as the Center determines to be essential to ensure compliance with the requirements of this section.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the “Russian Leadership Development Center Trust Fund” (the “Fund”) which shall consist of amounts which may be appropriated, credited, or transferred to it under this section.

(2) DONATIONS.—Any money or other property donated, bequeathed, or devised to the Center under the authority of this section shall be credited to the Fund.

(3) FUND MANAGEMENT.—

(A) IN GENERAL.—The provisions of subsections (b), (c), and (d) of section 116 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1105 (b), (c), and (d)), and the

provisions of section 117(b) of such Act (2 U.S.C. 1106(b)), shall apply to the Fund.

(B) EXPENDITURES.—The Secretary of the Treasury is authorized to pay to the Center from amounts in the Fund such sums as the Board of Trustees of the Center determines are necessary and appropriate to enable the Center to carry out the provisions of this section.

(d) EXECUTIVE DIRECTOR.—The Board shall appoint an Executive Director who shall be the chief executive officer of the Center and who shall carry out the functions of the Center subject to the supervision and direction of the Board of Trustees. The Executive Director of the Center shall be compensated at the annual rate specified by the Board, but in no event shall such rate exceed level III of the Executive Schedule under section 5314 of title 5, United States Code.

(e) ADMINISTRATIVE PROVISIONS.—

(1) IN GENERAL.—The provisions of section 119 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1108) shall apply to the Center.

(2) SUPPORT PROVIDED BY LIBRARY OF CONGRESS.—The Library of Congress may disburse funds appropriated to the Center, compute and disburse the basic pay for all personnel of the Center, provide administrative, legal, financial management, and other appropriate services to the Center, and collect from the Fund the full costs of providing services under this paragraph, as provided under an agreement for services ordered under sections 1535 and 1536 of title 31, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) TRANSFER OF FUNDS.—Any amounts appropriated for use in the program established under section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 93)¹ shall be transferred to the Fund and shall remain available without fiscal year limitation.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) TRANSFER.—Subsection (g) shall only apply to amounts which remain unexpended on and after the date the Board of Trustees of the Center certifies to the Librarian of Congress that grants are ready to be made under the program established under this section.

* * * * *

¹ See page 1377 for text, and notes.

d. Russian Leadership Program—Library of Congress

Partial text of Public Law 106-31 [1999 Emergency Supplemental Appropriations Act; H.R. 1141], 113 Stat 57 at 93, approved May 21, 1999; amended by Public Law 106-113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and by Public Law 106-554 [Legislative Branch Appropriations Act, 2001; H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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TITLE III—SUPPLEMENTAL APPROPRIATIONS

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CHAPTER 6

CONGRESSIONAL OPERATIONS

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ADMINISTRATIVE PROVISIONS—THIS CHAPTER

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SEC. 3011.¹ RUSSIAN LEADERSHIP PROGRAM.—(a) PURPOSE.—It is the purpose of this section to establish, in accordance with the provisions of this section—

(1) a pilot program within the Library of Congress for fiscal years 2000 and 2001;² and

(2) a permanent program within the Executive agency designated by the President of the United States for fiscal years 2002³ and thereafter,

to enable emerging political leaders of Russia at all levels of government to gain significant, firsthand exposure to the American

¹22 U.S.C. 2452a note. See also sec. 313 of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), which establishes a Russian Leadership Program in the legislative branch.

²Sec. 585(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1535), struck out “fiscal year 1999” and inserted in lieu thereof “fiscal years 1999 and 2000” in subssecs. (a)(1), (b)(4)(B), (d)(3), and (h)(1)(A). Sec. 310(1) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), struck out “fiscal years 1999 and 2000” and inserted in lieu thereof “fiscal years 2000 and 2001” in the same subsections.

³Sec. 585(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1535), struck out “2000” and inserted in lieu thereof “2001” in subssecs. (a)(2), (e)(1), and (h)(1)(B). Sec. 310(2) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), struck out “2001” and inserted in lieu thereof “2002” in the same subsections.

free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States.

(b) GRANTS.—

(1) IN GENERAL.—The head of the administering agency shall annually award grants to government or community organizations in the United States that seek to establish programs under which those organizations will host eligible Russians for the purpose described in subsection (a).

(2) DURATION.—The period of stay in the United States for any eligible Russian supported with grant funds under this section shall not exceed 30 days.

(3) LIMITATION.—The number of eligible Russians supported with grant funds under this section shall not exceed 3,000 in any fiscal year.

(4) ADMINISTRATION.—

(A) IN GENERAL.—Subject to the availability of appropriations, the head of the administering agency—

(i) may contract with nongovernmental organizations having expertise in carrying out the activities described in subsection (a) for the purpose of carrying out the administrative functions of the program (other than the awarding of grants); and

(ii) may, without regard to the civil service laws and regulations (or, in the case of the Librarian of Congress, any requirement for competition in hiring), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the administering agency to perform its duties under this section.

(B) WAIVER OF COMPETITIVE BIDDING.—The Librarian of Congress, after consultation with the Joint Committee on the Library of Congress, may enter into contracts under subparagraph (A)(i) to carry out the pilot program during fiscal years 2000 and 2001² without regard to section 3709 of the Revised Statutes or any other requirement for competitive contracting or the providing of notice of contracting opportunities.

(c) USE OF FUNDS.—Grants awarded under subsection (b) shall be used to pay—

(1) the costs and expenses incurred by each program participant in traveling between Russia and the United States and in traveling within the United States;

(2) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(3) such additional administrative expenses incurred by organizations in carrying out the program as the head of the administering agency may prescribe.

(d) APPLICATION.—

(1) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the head of the administering agency at such time, in such

manner, and accompanied by such information as such head may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought;

(B) include the number of program participants to be supported;

(C) describe the qualifications of the individuals who will be participating in the program; and

(D) provide such additional assurances as the head of the administering agency determines to be essential to ensure compliance with the requirements of this section.

(3) WAIVER.—The Librarian of Congress may waive the requirement of this subsection in carrying out the pilot program during fiscal years 2000 and 2001.²

(e) ADVISORY BOARD.—

(1) IN GENERAL.—There is established a Russian Leadership Program Advisory Board which shall advise the head of the administering agency as to the carrying out of the permanent program during fiscal years 2002³ and thereafter.

(2) MEMBERSHIP.—The Advisory Board under paragraph (1) shall consist of—

(A) two members appointed by the Speaker of the House of Representatives, of whom one shall be designated by the Majority Leader of the House of Representatives and one shall be designated by the Minority Leader of the House of Representatives;

(B) two members appointed by the President pro tempore of the Senate, of whom one shall be designated by the Majority Leader of the Senate and one shall be designated by the Minority Leader of the Senate;

(C) the Librarian of Congress;

(D) a private individual with expertise in international exchange programs, designated by the Librarian of Congress; and

(E) an officer or employee of the administering agency, designated by the head of the administering agency.

(3) TERMS.—Each member appointed under paragraph (2) shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term.

(f) REPORTING.—The head of the administering agency shall, not later than 3 months following the close of each fiscal year for which such agency administered the program, report to Congress with respect to the conduct of such program during such fiscal year. Such report shall include information with respect to the number of participants in the program and the cost of the program, and any recommendations on improvements necessary to enable the program to carry out the purposes of this section.

(g) FUNDING.—

(1) FISCAL YEAR 1999.—

(A) IN GENERAL.—Of funds made available under the heading “SENATE” under title I of the Legislative Appro-

priations Act, 1999 (Public Law 105-275; 112 Stat. 2430 et seq.), \$10,000,000 shall be made available, subject to the approval of the Committee on Appropriations of the Senate, to the administering agency to carry out the program.

(B) USE OF FUNDS AT CLOSE OF FISCAL YEAR.—Funds made available under this paragraph which are unexpended and unobligated as of the close of fiscal year 1999 shall no longer be available for such purpose and shall be available for the purpose originally appropriated.

(2)⁴ FISCAL YEAR 2000 AND SUBSEQUENT FISCAL YEARS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the administering agency for fiscal years 2000 and thereafter such sums as may be necessary to carry out the program.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(h) DEFINITIONS.—In this section:

(1) ADMINISTERING AGENCY.—The term “administering agency” means—

(A) for fiscal years 2000 and 2001,² the Library of Congress; and

(B) for fiscal year 2002,³ and subsequent fiscal years, the Executive agency designated by the President of the United States under subsection (a)(2).

(2) ELIGIBLE RUSSIAN.—The term “eligible Russian” means a Russian national who is an emerging political leader at any level of government.

(3) PROGRAM.—The term “program” means the grant program established under this section.

(4) PROGRAM PARTICIPANT.—The term “program participant” means an eligible Russian selected for participation in the program.

* * * * *

⁴Title II of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), provided: “That of the total amount appropriated, \$10,000,000 is to remain available until expended for salaries and expenses to carry out the Russian Leadership Program enacted on May 21, 1999 (113 Stat. 93 et seq.)”.

**e. Exchange Program With Countries in Transition From
Totalitarianism to Democracy**

Partial text of Public Law 101-610 [National and Community Service Act of 1990, S. 1430], 104 Stat. 3127 at 3186, approved November 16, 1990; amended by Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-761, approved October 21, 1998

AN ACT To enhance national and community service, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National and Community Service Act of 1990”.

* * * * *

TITLE VI—MISCELLANEOUS PROVISIONS

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SEC. 602. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

(a)¹ AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the Department of State.²

¹22 U.S.C. 2452a.

²Sec. 1335(c)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “United States Information Agency” and inserted in lieu thereof “Department of State”.

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the appropriate appropriations account of the Department of State³ such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State,⁴ as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

³Sec. 1335(c)(2)(A) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “appropriations account of the United States Information Agency” and inserted in lieu thereof “appropriate appropriations account of the Department of State”.

⁴Sec. 1335(c)(2)(B) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “and the United States Information Agency”.

f. Administration of the Mutual Educational and Cultural Exchange Act of 1961

Executive Order 11034, June 25, 1962, 27 F.R. 6071, 22 U.S.C. 2454 note, 3 CFR, 1959-1963 Comp., p. 614; as amended by Executive Order 11380, November 8, 1967, 32 F.R. 15627, 3 CFR, 1966-70 Comp., p. 689; Executive Order 12292, February 23, 1981, 46 F.R. 13967; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

ADMINISTRATION OF THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256; 75 Stat. 527; hereinafter referred to as the Act), and as President of the United States, I find that the delegations set forth in this order are in the interest of the purposes expressed in the said Act and the efficient administration of the programs undertaken pursuant to that Act and determine that the delegates specified in the order are appropriate and I hereby order as follows:

Section 1. Department of State. (a) The following functions conferred upon the President by the Act are hereby delegated to the Secretary of State:

(1) The functions so conferred by Sections 102(a)(1), 102(a)(2)(i), (ii) and (iv), 102(b)(3), (5) and (9), 103, 104(e)(3), and 105(d)(1) and (e) of the Act.

(2) The functions so conferred by Sections 102(a)(2)(iii) and (b)(1), (2), (4), (7), and (8) of the Act (the provisions of Section 2(a) of this order notwithstanding).

(3) The functions so conferred by Section 102(a)(3) of the Act to the extent that they pertain to liquidation of affairs respecting the Universal and International Exhibition of Brussels, 1958.

(4) The functions so conferred by Sections 104(d) and (e)(4) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(5) The functions so conferred by Section 104(e)(1) of the Act of prescribing rates for per diem in lieu of subsistence; but in carrying out the said function as it relates to functions herein delegated to the Director of the United States Information Agency or the Secretary of Education, the Secretary of State shall consult with them.

(b) The Secretary of State, in collaboration with the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, with respect to the functions delegated by Sections 2, 3, and 4, respectively, of this order, shall prepare and transmit to the President the reports which the President is required to submit to the Congress by Section 108(b) of the Act, excluding, however, the reports for which the Director of the

United States Information Agency is responsible under section 2(b) of this order.¹

(c) With respect to the carrying out of functions under Section 102(a)(2)(ii) of the Act hereinabove delegated to the Secretary of State, the Director of the United States Information Agency shall participate in the planning of cultural and other attractions. Such participation shall include consultation in connection with (1) the selection and scheduling of such attractions, and (2) the designation of the areas where the attractions will be presented.

Sec. 2. United States Information Agency. (a)² Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency:

(1)³ The functions so conferred by Sections 102(a)(2)(iii) and (b)(1); Section 102(b)(2) to the extent that it authorizes the type of centers now supported by the United States Information Agency abroad and designated as binational, community, or student centers; Section 102(b)(4) exclusive of professorships and lectureships; and Sections 102(b)(7) and (8) of the Act; all of the foregoing notwithstanding the provisions of Section 1(a)(2) of this order.

(2)³ The functions so conferred by Section 104(e)(4) of the Act (the provisions of Section 1(a)(4) and 3(b) of this order notwithstanding).

(3)³ The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held outside of the United States, but exclusive of the functions delegated by the provisions of Section 1(a)(3) of this order.

(4)³ The functions so conferred by Sections 104(d) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(b)⁴ The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act.

Sec. 3. Department of Commerce. Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Secretary of Commerce:

(a) The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held in the United States.

(b) The functions so conferred by Sections 104(e)(4) and 108(c) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

¹ Executive Order No. 11380 (November 8, 1967; 32 F.R. 15627) changed the period following the words "of the Act" to a comma and added all the words following thereafter.

² Executive Order No. 11380 inserted the subsection designation (a).

³ Executive Order No. 11380 changed the former designation of subsecs. (a), (b), (c), and (d) to (1), (2), (3), and (4).

⁴ Subsec. (b) was added by Executive Order No. 11380 (November 8, 1967; 32 F.R. 15627).

Sec. 4. Department of Education. Subject to the provisions of Section 6 of this order, the functions conferred upon the President by Section 102(b)(6) of the Act are hereby delegated to the Secretary of Education.

Sec. 5. Certain incidental matters. (a) In respect of functions hereinabove delegated to them, there is hereby delegated to the Secretary of State, the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, respectively:

(1) The authority conferred upon the President by Sections 105 (d)(2) and (f) and 106 (d) and (f) of the Act.

(2) Subject to the provisions of Section 5(b) and (c) of this order, the authority conferred upon the President by Section 104(b) of the Act to employ personnel.

(b) The employment, by any department or other executive agency under Section 5(a)(2) of this order, of any of the not to exceed ten persons who may be compensated without regard to the Classification Act of 1949 under Section 104(b) of the Act shall require prior authorization by the Secretary of State concurred in by the Director of the Office of Management and Budget.

(c) Persons employed or assigned by a department or other executive agency for the purpose of performing functions under the Act outside the United States shall be entitled, except in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by Section 310 of the Foreign Service Act of 1980 (22 U.S.C. 4085).⁵ In cases in which the period of employment or assignment exceeds thirty months, persons so employed or assigned shall be entitled to such benefits if agreed by the agency in which such benefits may be exercised.

(d) Pursuant to Section 104(f) of the Act, Executive Order No. 10450 of April 27, 1953 (18 F.R. 2489) is hereby established as the standards and procedures for the employment or assignment to duties of persons under the Act.

(e) Any officer to whom functions vested in the President by the Act are hereinabove delegated may (1) allocate to any other officer of the executive branch of the Government any funds appropriated or otherwise made available for the functions so delegated to him as he may deem appropriate for the best carrying out of the functions and (2) make available, for use in connection with any funds so allocated by him, any authority he has under this order.

Sec. 6. Policy guidance. In order to assure appropriate coordination of programs and taking into account the statutory functions of the departments and other executive agencies concerned, the Secretary of State shall exercise primary responsibility for Government-wide leadership and policy guidance with regard to international educational and cultural affairs.

Sec. 7. Functions reserved to the President. (a) There are hereby excluded from the functions delegated by the provisions of this order the functions conferred upon the President with respect to (1) the delegation of powers under Section 104(a) of the Act, (2) the establishment of standards and procedures for the investigation

⁵This reference to sec. 310 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 528 of the Foreign Service Act of 1946 "for persons appointed to the Foreign Service Reserve" by sec. 5 of Executive Order 12292 (February 23, 1981; 46 F.R. 13967).

of personnel under Section 104(f) of the Act, (3) the transfer of appropriations under Section 105(c) of the Act, (4) the appointment of members of the Board of Foreign Scholarships under Section 106(a)(1) of the Act, (5) the appointment of members, the designation of a chairman, and the receipt of recommendations of the United States Advisory Commission on International Educational and Cultural Affairs under Section 106(b) of the Act, (6) the waiver of provisions of law or limitations of authority under Section 108(a) of the Act, and (7) the submission of annual reports to the Congress under Section 108(b) of the Act.

(b) Notwithstanding the delegations made by this order, the President may in his discretion exercise any function comprehended by such delegations.

Sec. 8. Waivers. (a) It is hereby determined that the performance by any department or other executive agency of functions authorized by Sections 102(a)(2) and 102(a)(3) of the Act (22 U.S.C. 2452(a)(2) and (3)) without regard to prohibitions and limitations of authority contained in the following specified provisions of law is in furtherance of the purposes of the Act:

(1) Section 15 of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810), as amended (5 U.S.C. 3109) (experts and consultants); but the compensation paid individuals in pursuance of this paragraph shall not exceed the rate of \$100.00 per diem.

(2) Section 16(a) of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810; 31 U.S.C. 638a) to the extent that it pertains to hiring automobiles and aircraft.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(4) Section 322 of the Act of June 30, 1932, c. 314, 47 Stat. 412 (40 U.S.C. 278a) (maximum charges).

(5) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(6) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(7) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(8) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(9) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(10) Section 87 of the Act of January 12, 1895, c. 23, 28 Stat. 622, and the second proviso of Section 11 of the Act of March 1, 1919, c. 86, 40 Stat. 1270, as amended (44 U.S.C. 111) to the extent that they pertain to printing by the Government Printing Office.

(11) Section 1 of the Act of June 20, 1878, c. 359, 20 Stat. 216, as amended (44 U.S.C. 322) (advertising).

(12) Section 3828 of the Revised Statutes (44 U.S.C. 324) (advertising).

(13) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a))

(official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(14) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit construction of buildings by the United States on property not owned by it.

(15)⁶ Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds.

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps should be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

Sec. 9. Definition. As used in this order, the word "function" or "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

Sec. 10. References to orders and acts. Except as may for any reason be inappropriate:

(a) References in this order to the Act or any provision of the Act shall be deemed to include references thereto as amended from time to time.

(b) References in this order to any prior Executive order not superseded by this order shall be deemed to include references thereto as amended from time to time.

(c)⁷ References in this order shall be deemed to include references thereto as amended from time to time.

Sec. 11. Prior directives and actions. (a) This order supersedes Executive Order No. 10716 of June 17, 1957, and Executive Order No. 10912 of January 18, 1961. Except to the extent that they may be inconsistent with law or with this order, other directives, regulations, and actions relating to the functions delegated by this order and in force immediately prior to the issuance of this order shall remain in effect until amended, modified, or revoked by appropriate authority.

(b) This order shall neither limit nor be limited by Executive Order No. 11014 of April 17, 1962.

(c) To the extent not heretofore superseded, there are hereby superseded the provisions of the letters of the President to the Director of the United States Information Agency dated August 16, 1955, and August 21, 1956 (22 F.R. 101-103).

Sec. 12. Effective date. The provisions of this order shall be effective immediately.

⁶Subparagraph (15) was added by Executive Order 11380 (November 8, 1967; 32 F.R. 15627).

⁷Subsec. (c) was added by Executive Order 11380 (November 8, 1967; 32 F.R. 15627).

3. Vietnam Education Foundation Act of 2000

Partial text of Public Law 106-554 [Miscellaneous Appropriations Act, 2001; H.R. 5666, enacted by reference in H.R. 4577], 114 Stat. 2763 at 2763A-254, approved December 21, 2000

* * * * *

TITLE II—VIETNAM EDUCATION FOUNDATION ACT OF 2000¹

SEC. 201. SHORT TITLE.

This title may be cited as the “Vietnam Education Foundation Act of 2000”.

SEC. 202. PURPOSES.

The purposes of this title are the following:

(1) To establish an international fellowship program under which—

(A) Vietnamese nationals can undertake graduate and post-graduate level studies in the sciences (natural, physical, and environmental), mathematics, medicine, and technology (including information technology); and

(B) United States citizens can teach in the fields specified in subparagraph (A) in appropriate Vietnamese institutions.

(2) To further the process of reconciliation between the United States and Vietnam and the building of a bilateral relationship serving the interests of both countries.

SEC. 203. DEFINITIONS.

In this title:

(1) BOARD.—The term “Board” means the Board of Directors of the Foundation.

(2) FOUNDATION.—The term “Foundation” means the Vietnam Education Foundation established in section 204.

(3) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) UNITED STATES-VIETNAM DEBT AGREEMENT.—The term “United States-Vietnam debt agreement” means the Agreement Between the Government of the United States of America and the Government of the Socialist Republic of Vietnam Regarding the Consolidation and Rescheduling of Certain Debts Owed to, Guaranteed by, or Insured by the United States Government and the Agency for International Development, dated April 7, 1997.

¹ 22 U.S.C. 2452 note.

SEC. 204. ESTABLISHMENT.

There is established the Vietnam Education Foundation as an independent establishment of the executive branch under section 104 of title 5, United States Code.

SEC. 205. BOARD OF DIRECTORS.

(a) **IN GENERAL.**—The Foundation shall be subject to the supervision and direction of the Board of Directors, which shall consist of 13 members, as follows:

(1) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(2) Two members of the Senate, appointed by the President pro tempore, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(3) Secretary of State.

(4) Secretary of Education.

(5) Secretary of Treasury.

(6) Six members to be appointed by the President from among individuals in the nongovernmental sector who have academic excellence or experience in the fields of concentration specified in section 202(1)(A) or a general knowledge of Vietnam, not less than three of whom shall be drawn from academic life.

(b) **ROTATION OF MEMBERSHIP.**—(1) The term of office of each member appointed under subsection (a)(6) shall be 3 years, except that of the members initially appointed under that subsection, two shall serve for terms of 1 year, two shall serve for terms of 2 years, and two shall serve for terms of 3 years.

(2) A member of Congress appointed under subsection (a)(1) or (2) shall not serve as a member of the Board for more than a total of 6 years.

(c) **CHAIR.**—The Board shall elect one of the members appointed under subsection (a)(6) to serve as Chair.

(d) **MEETINGS.**—The Board shall meet upon the call of the Chair but not less frequently than twice each year. A majority of the voting members of the Board shall constitute a quorum.

(e) **DUTIES.**—The Board shall—

(1) select the individuals who will be eligible to serve as Fellows; and

(2) provide overall supervision and direction of the Foundation.

(f) **COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), each member of the Board shall serve without compensation, and members who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) **TRAVEL EXPENSES.**—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsist-

ence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

SEC. 206. FELLOWSHIP PROGRAM.

(a) **AWARD OF FELLOWSHIPS.**—

(1) **IN GENERAL.**—To carry out the purposes of this title, the Foundation shall award fellowships to—

(A) Vietnamese nationals to study at institutions of higher education in the United States at graduate and post-graduate levels in the following fields: physical sciences, natural sciences, mathematics, environmental sciences, medicine, technology, and computer sciences; and

(B) United States citizens to teach in Vietnam in appropriate Vietnamese institutions in the fields of study described in subparagraph (A).

(2) **SPECIAL EMPHASIS ON SCIENTIFIC AND TECHNICAL VOCABULARY IN ENGLISH.**—Fellowships awarded under paragraph (1) may include funding for the study of scientific and technical vocabulary in English.

(b) **CRITERIA FOR SELECTION.**—Fellowships under this title shall be awarded to persons who meet the minimum criteria established by the Foundation, including the following:

(1) **VIETNAMESE NATIONALS.**—Vietnamese candidates for fellowships shall have basic English proficiency and must have the ability to meet the criteria for admission into graduate or post-graduate programs in United States institutions of higher learning.

(2) **UNITED STATES CITIZEN TEACHERS.**—American teaching candidates shall be highly competent in their fields and be experienced and proficient teachers.

(c) **IMPLEMENTATION.**—The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of fellowships awarded under this section.

(d) **AUTHORITY TO AWARD FELLOWSHIPS ON A MATCHING BASIS.**—The Foundation may require, as a condition of the availability of funds for the award of a fellowship under this title, that an institution of higher education make available funds for such fellowship on a matching basis.

(e) **FELLOWSHIP CONDITIONS.**—A person awarded a fellowship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or teaching, as appropriate, and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(f) **FUNDING.**—

(1) **FISCAL YEAR 2001.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Foundation \$5,000,000 for fiscal year 2001 to carry out the activities of the Foundation.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(2) FISCAL YEAR 2002 AND SUBSEQUENT FISCAL YEARS.—Effective October 1, 2001, the Foundation shall utilize funds transferred to the Foundation under section 207.

SEC. 207. VIETNAM DEBT REPAYMENT FUND.

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, there is established in the Treasury a separate account which shall be known as the Vietnam Debt Repayment Fund (in this subsection referred to as the “Fund”).

(b) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all payments (including interest payments) made by the Socialist Republic of Vietnam under the United States-Vietnam debt agreement.

(c) AVAILABILITY OF THE FUNDS.—

(1) FISCAL YEAR LIMITATION.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, \$5,000,000 of the amounts deposited into the Fund (or accrued interest) each fiscal year shall be available to the Foundation, without fiscal year limitation, under paragraph (2).

(2) DISBURSEMENT OF FUNDS.—The Secretary of the Treasury, at least on a quarterly basis, shall transfer to the Foundation amounts allotted to the Foundation under paragraph (1) for the purpose of carrying out its activities.

(3) TRANSFER OF EXCESS FUNDS TO MISCELLANEOUS RECEIPTS.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, the Secretary of the Treasury shall withdraw from the Fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the Fund in excess of amounts made available to the Foundation under paragraph (1).

(d) ANNUAL REPORT.—The Board shall prepare and submit annually to Congress statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

SEC. 208. FOUNDATION PERSONNEL MATTERS.

(a) APPOINTMENT BY BOARD.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board without regard to the provisions of title 5, United States Code, or any regulation thereunder, governing appointment in the competitive service. The Executive Director shall be the Chief Executive Officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine voting members of the Board.

(b) PROFESSIONAL STAFF.—The Executive Director shall hire Foundation staff on the basis of professional and nonpartisan qualifications.

(c) EXPERTS AND CONSULTANTS.—The Executive Director may procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code to carry out the purposes of the Foundation.

(d) COMPENSATION.—The Board may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title V, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 209. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out this title, the Foundation may—

(1) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) accept and use the services of voluntary and noncompensated personnel;

(4) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of a majority of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(5) rent office space in the District of Columbia; and

(6) make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives an annual report of its operations under this title.

SEC. 210. TERMINATION.

(a) IN GENERAL.—The Foundation may not award any new fellowship, or extend any existing fellowship, after September 30, 2016.

(b) ABOLISHMENT.—Effective 120 days after the expiration of the last fellowship in effect under this title, the Foundation is abolished.

4. Irish Peace Process Cultural and Training Program Act of 1998

Public Law 105-319 [H.R. 4293], 112 Stat. 3013, approved October 30, 1998

AN ACT To establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Irish Peace Process Cultural and Training Program Act of 1998”.

SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.

(a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Attorney General shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process. The program shall promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence. The Secretary of State and the Attorney General shall cooperate with nongovernmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

(2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 3 consecutive program years.

(B) OFFSET IN NUMBER OF H-2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Immigration and Naturalization Service shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of the third program year and for the 3 subsequent years, the Immigration

¹ 8 U.S.C. 1101 note.

and Naturalization Service shall compile and submit to the Congress a report on the number of aliens admitted with non-immigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term “designated counties” means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by inserting “(i)” after “(Q)”; and

(B) by inserting after the semicolon at the end the following: “or (ii)(I) an alien 35 years of age or younger having a residence in Northern Ireland, or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 36 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Attorney General under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(d) SUNSET.—

(1) Effective October 1, 2005, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

(2) Effective October 1, 2005, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by striking “or” at the end of clause (i);

(B) by striking “(i)” after “(Q)”; and

(C) by striking clause (ii).

5. Caribbean and Central America Scholarship Assistance

Partial text of Public Law 101-382 [Customs and Trade Act of 1990; H.R. 1594], 104 Stat. 629 at 661, approved August 20, 1990

AN ACT To make miscellaneous and technical changes to various trade laws.

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

SECTION 1.¹ SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Customs and Trade Act of 1990”.

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TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

* * * * *

SUBTITLE C—SCHOLARSHIP ASSISTANCE AND TOURISM PROMOTION

SEC. 231.² COOPERATIVE PUBLIC AND PRIVATE SECTOR PROGRAM FOR PROVIDING SCHOLARSHIPS TO STUDENTS FROM THE CARIBBEAN AND CENTRAL AMERICA.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange or understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the “scholarship diplomacy” efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

¹ 19 U.S.C. 2101 note.

² 20 U.S.C. 226.

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the “American experience” for foreign students.

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students’ respective countries.

(d) AGREEMENT WITH STATES.—The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers of subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient’s prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

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

(1) The term “eligible country” means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

* * * * *

6. United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405 at 439, approved August 16, 1985; amended by Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

SEC. 601.¹ STATEMENT OF PURPOSE.

The purpose of this title is to establish an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for study at United States institutions of higher education.

SEC. 602.² FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) it is in the national interest for the United States Government to provide a stable source of financial support to give students in developing countries the opportunity to study in the United States, in order to improve the range and quality of educational alternatives, increase mutual understanding, and build lasting links between those countries and the United States;

(2) providing scholarships to foreign students to study in the United States has proven over time to be an effective means

¹22 U.S.C. 4701.

²22 U.S.C. 4702.

of creating strong bonds between the United States and the future leadership of developing countries and, at the same time, assists countries substantially in their development efforts;

(3) study in United States institutions by foreign students enhances trade and economic relationships by providing strong English language skills and establishing professional and business contacts;

(4) students from families of limited financial means have, in the past, largely not had the opportunity to study in the United States, and scholarship programs sponsored by the United States have made no provision for identifying preparing, or supporting such students for study in the United States;

(5) it is essential that the United States citizenry develop its knowledge and understanding of the developing countries and their languages, cultures, and socioeconomic composition as these areas assume an ever larger role in the world community;

(6)³ an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

(7)³ the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

(8)³ it is also in the interest of the United States, as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

SEC. 603.⁴ SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for undergraduate study at United States institutions of higher education by citizens and nationals of developing countries who have completed their secondary education and who

³Sec. 305 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out paras. (6) and (7), and redesignated paras. (8) through (10) as (6) through (8). Former paras. (6) and (7) provided as follows:

“(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

“(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent.”.

⁴22 U.S. 4703.

would not otherwise have an opportunity to study in the United States due to financial limitations.

(b) **FORM OF SCHOLARSHIP; FORGIVENESS OF LOAN REPAYMENT.**—To encourage students to use their training in their countries of origin each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to his or her country or origin for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, half of the repayment shall be forgiven.

(c) **CONSULTATION.**—Before allocation any of the funds made available to carry out this title, the President shall consult with United States institutions of higher education, educational exchange organizations, United States missions in developing countries, and the governments of participating countries on how to implement the guidelines specified in section 604.

(d) **DEFINITION.**—For purposes of this title, the term “institution of higher education” has the same meaning as given to such term by section 101⁵ of the Higher Education Act of 1965.

SEC. 604.⁶ GUIDELINES.

The scholarship program under this title shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this title shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity.

(2) United States missions shall design ways to identify promising students who are in secondary educational institutions, or who have completed their secondary education, for study in the United States. In carrying out this paragraph, the United States mission in a country shall consult with Peace Corps volunteers and staff assigned to that country and with private and voluntary organizations with a proven record of providing development assistance to developing countries.

(3) United States missions shall develop and strictly implement specific economic need criteria. Scholarships under this title may only be provided to students who meet the economic need criteria.

(4) The program shall utilize educational institutions in the United States and in developing countries to help participants in the programs acquire necessary skills in English and other appropriate education training.

(5) Each participant from a developing country shall be selected on the basis of academic and leadership potential and the economic, political, and social development needs of such country. Such needs shall be determined by each United States mission in consultation with the government of the respective

⁵Sec. 102(a)(7)(D) of Public Law 105-244 (112 Stat. 1619) struck out “1201(a)” and inserted in lieu thereof “101”.

⁶22 U.S.C. 4704.

country. Scholarship opportunities shall emphasize fields that are critical to the development of the participant's country, including agriculture, civil engineering, communications, social science, education, public and business administration, health, nutrition, environmental studies, population and family planning, and energy.

(6) The program shall be flexible in order to take advantage of different training and educational opportunities offered by universities, postsecondary vocational training schools, and community colleges in the United States.

(7) The program shall be flexible with respect to the number of years of undergraduate education financed but in no case shall students be brought to the United States for a period less than one year.

(8) Adequate allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide adequate opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The United States Information Agency shall recommend to each student, who receives a scholarship under this title for study at a college or university, that the student enroll in a course on the classics of American political thought or which otherwise emphasizes the ideas, principles, and documents upon which the United States was founded.

SEC. 605. AUTHORITY TO ENTER INTO AGREEMENTS.

The President may enter into agreements with foreign governments in furtherance of the purposes of this title. Such agreements may provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purposes of administering programs under this title.

SEC. 606.⁷ POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.

(a) **AID-FUNDED PROGRAMS.**—The Congress urges the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, in implementing programs authorized under that part, to increase assistance for undergraduate scholarships for students of limited financial means from developing countries to study in the United States at United States institutions of higher education. To the maximum extent practicable, such scholarship assistance shall be furnished in accordance with the guidelines contained in section 604 of this title.

(b) **USIA-FUNDED POSTGRADUATE STUDY IN THE UNITED STATES.**—The Congress urges the Director of the United States Information Agency to expand opportunities for students of limited financial means from developing countries to receive financial assist-

⁷ 22 U.S.C. 4706.

ance for postgraduate study at United States institutions of higher education.

(c) **STUDY BY AMERICANS IN DEVELOPING COUNTRIES.**—The Congress urges the President to take such steps as are necessary to expand the opportunities for Americans from all economic classes to study in developing countries.

SEC. 607.⁸ ESTABLISHMENT AND MAINTENANCE OF COUNSELING SERVICES.

(a) **COUNSELING SERVICES ABROAD.**—For the purpose of assisting foreign students in choosing fields of study, selecting appropriate institutions of higher education, and preparing for their stay in the United States, the President may make suitable arrangements for counseling and orientation services abroad.

(b) **COUNSELING SERVICES IN THE UNITED STATES.**—For the purposes of assisting foreign students in making the best use of their opportunities while attending United States institutions of higher education, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements (by contract or otherwise) for the establishment and maintenance of adequate counseling services at United States institutions of higher education which are attended by foreign students.

SEC. 608.⁹ BOARD OF FOREIGN SCHOLARSHIPS.

The Board of Foreign Scholarships shall advise and assist the President in the discharge of the scholarship program carried out pursuant to this title, in accordance with the guidelines set forth in section 604. The President may provide for such additional secretarial and staff assistance for the board as may be required to carry out this title.

SEC. 609.¹⁰ GENERAL AUTHORITIES.

(a) **PUBLIC AND PRIVATE SECTOR CONTRIBUTIONS.**—The public and private sectors in the United States and in the developing countries shall be encouraged to contribute to the costs of the scholarship program financed under this title.

(b) **UTILIZATION OF RETURNING PROGRAM PARTICIPANTS.**—The President shall seek to engage the public and private sectors of developing countries in programs to maximize the utilization of recipients of scholarships under this title upon their return to their own countries.

(c) **PROMOTION ABROAD OF SCHOLARSHIP PROGRAM.**—The President may provide for publicity and promotion abroad of the scholarship program provided for in this title.

(d) **INCREASING UNITED STATES UNDERSTANDING OF DEVELOPING COUNTRIES.**—The President shall encourage United States institutions of higher education, which are attended by students from developing countries who receive scholarships under this title, to provide opportunities for United States citizens attending those institutions to develop their knowledge and understanding of the devel-

⁸ 22 U.S.C. 4707.

⁹ 22 U.S.C. 4708.

¹⁰ 22 U.S.C. 4709.

oping countries, and the languages and cultures of those countries, represented by those foreign students.

(e) OTHER ACTIVITIES TO PROMOTE IMPROVED UNDERSTANDING.—Funds allocated by the United States Information Agency, or the agency primarily responsible for carrying out part I of the Foreign Assistance Act of 1961, for scholarships in accordance with this title shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the United States and Latin America and the Caribbean through programs of cooperation, study, training, and research. Such funds may be used for program and administrative costs for institutions carrying out such programs.

SEC. 610.¹¹ ENGLISH TEACHING, TEXTBOOKS, AND OTHER TEACHING MATERIALS.

Wherever adequate facilities or materials are not available to carry out the purposes of paragraph (4) of section 604 in the participant's country and the President determines that the purposes of this title are best served by providing the preliminary training in the participant's country, the President may (by purchase, contract, or other appropriate means) provide the necessary materials and instructors to achieve such purpose.

SEC. 611.¹² * * * [Repealed—1994]

SEC. 612.¹³ FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1986 AND FISCAL YEAR 1987.

(a) CENTRAL AMERICAN UNDERGRADUATE SCHOLARSHIP PROGRAM.—The undergraduate scholarship program financed by the United States Information Agency for students from Central America for fiscal year 1986 and fiscal year 1987 shall be conducted in accordance with this title.

(b) SCHOLARSHIPS FOR STUDENTS FROM OTHER DEVELOPING COUNTRIES.—Any funds appropriated to the United States Information Agency for fiscal year 1986 or fiscal year 1987 for any purpose (other than funds appropriated for educational exchange programs under section 102(a)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(1))) may be used to carry out this title with respect to students from developing countries outside Central America.

SEC. 613.¹⁴ LATIN AMERICAN EXCHANGES.

Of any funds authorized to be appropriated for activities authorized by this title, not less than 25 percent shall be allocated to fund grants and exchanges to Latin America and the Caribbean.

¹¹ 22 U.S.C. 4710.

¹² Formerly at 22 U.S.C. 4711. Sec. 611, which had required that the President report annually to Congress on activities and expenditures under this title, was repealed by sec. 139(13) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398).

¹³ 22 U.S.C. 4712.

¹⁴ 22 U.S.C. 4713.

SEC. 614.¹⁵ FEASIBILITY STUDY OF TRAINING PROGRAMS IN SIZABLE HISPANIC POPULATIONS.

No later than December 15, 1985, the Director of the United States Information Agency and the Administrator of the Agency for International Development shall report jointly, to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs¹⁶ of the House of Representatives, on the feasibility of greater utilization in those two agencies' scholarship and participant training programs of the United States universities in States bordering Latin America and Caribbean which are located in areas characterized by the presence of sizable Hispanic populations.

SEC. 615.¹⁷ COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

Any authority provided by this title to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

¹⁵ 22 U.S.C. 4714.

¹⁶ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁷ 22 U.S.C. 4715.

7. National Endowment for Democracy Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1039, approved November 22, 1983; as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

* * * * *

TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY

SHORT TITLE

SEC. 501. This title may be cited as the “National Endowment for Democracy Act”.

NATIONAL ENDOWMENT FOR DEMOCRACY¹

SEC. 502.² (a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known

¹See also sec. 212 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), and sec. 211 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138), for reporting requirements relating to the National Endowment for Democracy.

Sec. 534 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 481), provided the following:

“SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.

“(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

“(b) CONTENT OF REPORT.—The report shall include the following:

“(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

“(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

“(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

“(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government’s role in democracy promotion.

Continued

as the National Endowment for Democracy (hereafter in this title referred to as the “Endowment”) which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, and business) and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties, labor, business, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) to support the participation of the two major American political parties, labor, business, and other United States private sector groups in fostering cooperation with those abroad

⁵(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

⁶(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.”

Sec. 2411 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-831; 22 U.S.C. 4416), provided the following:

“SEC. 2411. RETENTION OF INTEREST.

“Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.”

²²22 U.S.C. 4411. Authorization of appropriations for fiscal years 1994 and 1995 for the National Endowment for Democracy were included in general authorization levels for several programs; see sec. 201(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 420).

Previous authorizations: fiscal year 1984—\$31,300,000; fiscal year 1985—\$31,300,000; fiscal year 1986—\$18,400,000; fiscal year 1987—\$18,400,000; fiscal year 1988—\$17,500,000; fiscal year 1989—\$18,100,000; fiscal year 1990—\$25,000,000; fiscal year 1991—\$25,000,000; fiscal year 1992—\$30,000,000; fiscal year 1993—\$31,250,000.; fiscal year 1994—\$35,000,000; fiscal year 1995—\$35,000,000; fiscal year 1998—\$31,000,000; fiscal year 1999—\$30,000,000; fiscal year 2000—\$32,000,000; and fiscal year 2001—\$32,000,000.

The Department of State and Related Agency Appropriations Act, 2001 (title IV H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762 at 2762A-95), provided the following for fiscal year 2001:

“NATIONAL ENDOWMENT FOR DEMOCRACY

“For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$30,999,000, to remain available until expended.”

Previous appropriations include: fiscal year 1984—\$18,000,000; fiscal year 1985—\$18,500,000; fiscal year 1986—\$18,000,000; fiscal year 1987—\$15,000,000; fiscal year 1988—\$16,875,000; fiscal year 1989—\$15,800,000; fiscal year 1990—\$17,000,000; fiscal year 1991—\$25,000,000; fiscal year 1992—\$27,500,000; fiscal year 1993—\$30,000,000; fiscal year 1994—\$35,000,000; fiscal year 1995—\$34,000,000; fiscal year 1996—\$30,000,000; fiscal year 1997—\$30,000,000; fiscal year 1998—\$30,000,000; fiscal year 1999—\$30,000,000; fiscal year 2000—\$31,000,000; and fiscal year 2001—\$30,999,000.

dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

GRANTS TO THE ENDOWMENT

SEC. 503.³ (a) The Director of the United States Information Agency shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 502(b). Such grants shall be made with funds specifically appropriated for grants to the Endowment or with funds appropriated to the Agency for the "Salaries and Expenses" account. Such grants shall be made pursuant to a grant agreement between the Director and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 502(b), that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this title. The grant agreement may not require the Endowment to comply with requirements other than those specified in this title.

(b) Funds so granted may be used by the Endowment to carry out the purposes described in section 502(b), and otherwise applicable limitations on the purposes for which funds appropriated to the United States Information Agency may be used shall not apply to funds granted to the Endowment.

(c) Nothing in this title shall be construed to make the Endowment an agency or establishment of the United States Government or to make the members of the Board of Directors of the Endowment, or the officers or employees of the Endowment, officers or employees of the United States.

(d) The Endowment and its grantees shall be subject to the appropriate oversight procedures of the Congress.

(e) Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

(1) not less than \$13,800,000 shall be for the Free Trade Union Institute; and

(2) not less than \$2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.

(f)⁴ Nothing in this title shall preclude the Endowment from making grants to independent labor unions.

³22 U.S.C. 4412.

⁴Subsec. (f) was added by sec. 212 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376).

ELIGIBILITY OF THE ENDOWMENT FOR GRANTS

SEC. 504.⁵ (a) Grants may be made to the Endowment under this title only if the Endowment agrees to comply with the requirements specified in this section and elsewhere in this title.

(b)(1) The Endowment may only provide funding for programs of private sector groups and may not carry out programs directly.

(2) The Endowment may provide funding only for programs which are consistent with the purposes set forth in section 502(b).

(c)(1) Officers of the Endowment may not receive any salary or other compensation from any source, other than the Endowment, for services rendered during the period of their employment by the Endowment.

(2) If an individual who is an officer or employee of the United States Government serves as a member of the Board of Directors or as an officer or employee of the Endowment, that individual may not receive any compensation or travel expenses in connection with services performed for the Endowment.

(d)(1) The Endowment shall not issue any shares of stock or declare or pay any dividends.

(2) No part of the assets of the Endowment shall inure to the benefit of any member of the Board, any officer or employee of the Endowment, or any other individual, except as salary or reasonable compensation for services.

(e)(1) The accounts of the Endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Endowment are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required by subsection (h). The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Endowment's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Endowment's income and expenses during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(f)(1) The financial transactions of the Endowment for each fiscal year may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Endowment are normally kept. The

⁵ 22 U.S.C. 4413.

representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Endowment shall remain in the possession and custody of the Endowment.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Endowment, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this title. A copy of each report shall be furnished to the President and to the Endowment at the time submitted to the Congress.

(g)⁶ The financial transactions of the Endowment for each fiscal year shall⁷ be audited by the United States Information Agency under the conditions set forth in subsection (f)(1).

(h)(1)⁸ The Endowment shall ensure that each recipient of assistance provided through the Endowment under this title keeps separate bank accounts or separate self-balancing ledger accounts with respect to such assistance⁹ and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Endowment shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Endowment under this title. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose.

(i)⁸ Not later than February 1¹⁰ of each year, the Endowment shall submit an annual report for the preceding fiscal year to the

⁶Subsec. (g) was added by subsec. (b)(2) of sec. 210 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405.)

⁷Sec. 211(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 695), struck out "may also" and inserted in lieu thereof "shall".

⁸Subsec. (b)(1) of sec. 210 of Public Law 99-93 (99 Stat. 405 at 432), redesignated subsecs. (g) and (h) as subsecs. (h) and (i), respectively.

⁹The phrase "separate accounts with respect to such assistance" was added by sec. 211 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376). The word "accounts" was subsequently struck out, and in its place was inserted "bank accounts or separate self-balancing ledger accounts" by sec. 228 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423).

¹⁰Subsec. (d) of sec. 210 of Public Law 99-93 (99 Stat. 405 at 432), substituted "February 1" in lieu of "December 31".

President for transmittal to the Congress. The report shall include a comprehensive and detailed report of the Endowment's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Endowment deems appropriate. The Board members and officers of the Endowment shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (f), or any other matter which any such committee may determine.

(j)¹¹ After January 31, 1993, no member of the Board of the Endowment may be a member of the board of directors or an officer of any grantee of the National Endowment for Democracy which receives more than 5 percent of the funds of the Endowment for any fiscal year.

REQUIREMENTS RELATING TO THE ENDOWMENT AND ITS GRANTEEES

SEC. 505.¹² (a) PARTISAN POLITICS.—(1) Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office.

(2) No funds granted by the Endowment may be used to finance activities of the Republican National Committee or the Democratic National Committee.

(3) No grants may be made to any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States.

(b) CONSULTATION WITH DEPARTMENT OF STATE.—The Endowment shall consult with the Department of State on any overseas program funded by the Endowment prior to the commencement of the activities of that program.

FREEDOM OF INFORMATION

SEC. 506.¹³ (a) COMPLIANCE WITH FREEDOM OF INFORMATION ACT.—Notwithstanding the fact that the Endowment is not an agency or establishment of the United States Government, the Endowment shall fully comply with all of the provisions of section 552 of title 5, United States Code.

(b) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to subsection (a) with section 552(a)(1) of such title, the Endowment shall make available to the Director of the United States Information Agency such records and other information as

Sec. 209(e)(17) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), stated that sec. 3003(a)(1) of Public Law 104(66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that “* * * each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list * * * [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000.”

¹¹Sec. 215 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 697), added subsec. (j).

¹²22 U.S.C. 4414. Sec. 505 was added by sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405).

¹³22 U.S.C. 4415. Sec. 506 was added by sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405).

the Director determines may be necessary for such purposes. The Director shall cause such records and other information to be published in the Federal Register.

(c) REVIEW BY USIA.—(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the Director of the United States Information Agency explaining the reasons for not complying with such request.

(2) If the Director approves the determination not to comply with such request, the United States Information Agency shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the Director disapproves the determination not to comply with such request, the Endowment shall comply with such request.

8. Fascell Fellowship Act

Partial text of Public Law 99-399 [Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-454 [Fascell Fellowship Amendments Act of 1990; S. 2017], 104 Stat. 1063 at 1065, approved October 24, 1990; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1994; and by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

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

* * * * *

TITLE X—FASCELL FELLOWSHIP PROGRAM

SEC. 1001. SHORT TITLE.

This title may be cited as the “Fascell Fellowship Act.”

SEC. 1002.¹ FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS ABROAD.

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions which would otherwise be² held by foreign national employees at United States diplomatic or consular missions abroad.²

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as “Fascell Fellowships.”

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a “Fellow”) to serve on a short-term basis at a United States diplomatic or consular mission abroad³ in order to obtain first hand exposure to that country, including (as appro-

¹22 U.S.C. 4901. Sec. 303 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “IN THE SOVIET UNION AND EASTERN EUROPE” from the section heading and inserted in lieu thereof “ABROAD”.

²Sec. 9(b)(1) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1065) (A) struck out “formerly” and inserted in lieu thereof “which would otherwise be”; and (B) struck out “in the Soviet Union or Eastern European countries” and inserted in lieu thereof “abroad”.

³Sec. 9(b)(2) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) (A) struck out “in the Soviet Union or an Eastern European country” and inserted in lieu thereof “abroad”; and (B) struck out “Soviet or Eastern European” and inserted in lieu thereof “that country’s”.

appropriate) independent study in that country's³ area studies or languages.

(d) **INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.**—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in international affairs, foreign languages, or career and professional experience or interest in international affairs,⁴ and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) **WOMEN AND MEMBERS OF MINORITY GROUPS.**—In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

SEC. 1003.⁵ FELLOWSHIP BOARD.

(a) **ESTABLISHMENT AND FUNCTION.**—There is hereby established a Fellowship Board (hereafter in this title referred to as the “Board”), which shall select the individuals who will be eligible to serve as Fellows.

(b) **MEMBERSHIP.**—The Board shall consist of 7 members⁶ as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3)⁷ Five⁸ academic specialists in international affairs or foreign languages,⁹ appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs¹⁰ of the House of Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) **MEETINGS.**—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) **COMPENSATION AND PER DIEM.**—Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in

⁴Sec. 9(b)(3) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “Soviet or Eastern European area studies or languages” and inserted in lieu thereof “international affairs, foreign languages, or career and professional experience or interest in international affairs.”

⁵22 U.S.C. 4902.

⁶Sec. 1335(f)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out “9 members” and inserted in lieu thereof “7 members”.

⁷Sec. 1335(f)(3) and (4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out para. (3) at this point, which designated an officer of the United States Information Agency as a member of the Board, and redesignated para. (4) as new para. (3).

⁸Sec. 1335(f)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out “Six” and inserted in lieu thereof “Five”.

⁹Sec. 9(c)(1) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “Soviet or Eastern European area studies or languages,” and inserted in lieu thereof “international affairs or foreign languages.”

Sec. 9(c)(2) of that Act made this amendment applicable “only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.”

¹⁰Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 1004.¹¹ FELLOWSHIPS.

(a) **NUMBER.**—Up to 100 fellowships may be provided under this title each year. Not less than 15 shall be provided during fiscal year 1993.¹²

(b) **REMUNERATION AND PERIOD.**—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this title, and

(2) the period of the fellowship, which shall be between one and two years.

(c) **TRAINING.**—Each Fellow may be given appropriate training at the Foreign Service Institute or other appropriate institution.

(d) **HOUSING AND TRANSPORTATION.**—The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) **EFFECTIVE DATE.**—Subsection (d) of this section shall not take effect until October 1, 1986.

SEC. 1005.¹³ SECRETARY OF STATE.

(a) **DETERMINATIONS.**—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission abroad¹⁴ and the position in which each will serve.

(b) **AUTHORITIES.**—Fellows may be employed—

(1) under a temporary appointment in the civil service;

(2) under a limited appointment in the Foreign Service; or

(3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.

¹¹ 22 U.S.C. 4903.

¹² Sec. 1004(a) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) added the second sentence.

¹³ 22 U.S.C. 4904. Subsec. (b) was amended and restated by sec. 187 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368).

¹⁴ Sec. 9(d) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as "Fascell Fellowship Amendments Act of 1990"; Public Law 101-454; 104 Stat. 1066) struck out "in the Soviet Union or Eastern Europe" and inserted in lieu thereof "abroad".

(c) FUNDING.—Funds appropriated to the Department of State for “Salaries and Expenses” shall be used for the expenses incurred in carrying out this title.¹⁵

* * * * *

¹⁵Sec. 804(b) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) provided the following:

“(b) FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act [Fascell Fellowship Act], funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.”.

9. Soviet, Former Soviet, Eastern European Education and Training Programs

a. Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992

FREEDOM Support Act

Partial text of Public Law 102-511 [S. 2532], 106 Stat. 3320, approved October 24, 1992

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

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

SECTION 1.¹ SHORT TITLES.

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

* * * * *

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

SEC. 801.² DESIGNATION OF EDMUND S. MUSKIE FELLOWSHIP PROGRAM. * * *

SEC. 802. NEW DIPLOMATIC POSTS IN THE INDEPENDENT STATES.

There are authorized to be appropriated for “NEW DIPLOMATIC POSTS” for personnel, support, and other expenses, not otherwise provided for, for the Department of State and the United States Information Agency to establish and operate new diplomatic posts in the independent states of former Soviet Union, \$25,000,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

SEC. 803.³ OCCUPANCY OF NEW CHANCERY BUILDINGS. * * *

SEC. 804.⁴ CERTAIN POSITIONS AT UNITED STATES MISSIONS.

(a) AMENDMENT.—Section 1004(a) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is amended by adding at the

¹22 U.S.C. 5801 note. See also the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2317), in *Legislation on Foreign Relations Through 2001*, vol. I-A.

²Sec. 801 added the Edmund S. Muskie Fellowship Program to sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note).

³Sec. 803 repealed subsecs. (f) and (g) of section 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

⁴Title X of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is the Fасcell Fellowship Act.

end the following: "Not less than 15 shall be provided during fiscal year 1993."

(b)⁵ FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.

SEC. 805.⁶ INTERNATIONAL DEVELOPMENT LAW INSTITUTE.

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

SEC. 806.⁷ CERTAIN BOARD FOR INTERNATIONAL BROADCASTING CONSTRUCTION ACTIVITIES. * * *

SEC. 807.⁸ EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.

(a) FUNDING FOR EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out a broad spectrum of exchanges, and of training and similar programs to promote the objectives described in section 498 of the Foreign Assistance Act of 1961, between the United States and the independent states of the former Soviet Union, there are authorized to be appropriated for fiscal year 1993 (in addition to amounts otherwise available for such purposes) the following:

(A) \$20,000,000 for exchange programs for secondary school students.

(B) \$30,000,000 for programs for participants other than secondary school students, including undergraduate and graduate students, farmers and other agribusiness practitioners, and participants in the exchanges carried out under paragraph (2).

(2) LOCAL AND REGIONAL SELF-GOVERNMENT EXCHANGES.—The Director of the United States Information Agency is authorized to use funds authorized to be appropriated by paragraph (1)(B) to conduct exchanges to provide technical assistance in local and regional self-government to the independent states.

(3) REPORT ON PROPOSED FUNDING ALLOCATIONS.—Within 45 days after the date of the enactment of this Act, the coordinator designated pursuant to section 102(a) of this Act shall submit to the Congress a report specifying the amount of funds authorized to be appropriated by paragraph (1) that is proposed to be allocated for each category of program and for each Government agency.

(4) PROGRAM ADMINISTRATION.—

⁵ 22 U.S.C. 4903 note.

⁶ 22 U.S.C. 288j. For International Organizations Immunities Act (Public Law 79-291), see page 2247.

⁷ Sec. 806 amended sec. 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

⁸ 22 U.S.C. 2452 note.

(A) USIA.—Educational, cultural, and any other exchange programs carried out under this subsection, including any such programs for secondary school students, shall be administered by the United States Information Agency, and funds allocated for such programs shall be transferred to that Agency.

(B) OTHER AGENCIES.—Training and other non-exchange programs carried out under this subsection shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(5) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds made available to each Government agency under this subsection may be used by that agency for administrative expenses of program implementation.

(b) ENHANCEMENT OF USIA EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the United States Information Agency for fiscal year 1993 for enhancement of existing educational and cultural exchange programs the following:

(1) \$9,950,000 for Fulbright Academic Exchange Programs.

(2) \$10,850,000 for other programs administered by the Bureau of Educational and Cultural Affairs.

(c)⁹ REPEAL.—Effective 6 months after the date of enactment of this Act, section 225 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and the item relating to that section in the table of contents set forth in section 2 of that Act, are repealed.

(d) AGRIBUSINESS EXCHANGES.—

(1) AUTHORIZATION.—The President is authorized to establish regional agribusiness offices at State universities and land grant colleges in the United States for the purpose of expanding exchanges between agribusiness practitioners in the United States and agribusiness practitioners in the independent states of the former Soviet Union.

(2) LIMITATION ON FUNDING SOURCES.—Funds authorized to be appropriated by this section or other provisions of this Act (including chapter 11 of part I of the Foreign Assistance Act of 1961) may not be used to carry out this subsection.

* * * * *

⁹ 22 U.S.C. 2452 note.

**b. Soviet-Eastern Europe Educational Exchange Programs
in the Foreign Relations Authorization Act, Fiscal Years
1992 and 1993**

Partial text of Public Law 102-138 [H.R. 1415], 105 Stat. 647, approved October 28, 1992; amended by Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; and by Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

* * * * *

**TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

PART A—UNITED STATES INFORMATION AGENCY

SEC. 210.¹ CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) PURPOSE.—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)² AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this section, of which not more than \$500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

* * * * *

¹22 U.S.C. 2452 note.

²The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 822), provided under educational and cultural exchange programs, that "\$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation".

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1870), provided under educational and cultural exchange programs, that "\$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government."

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts: * * *²

(5) OTHER PROGRAMS.—For “East Europe Training Projects”, “Citizen Exchange Programs”, and the “Congress-Bundestag Exchange Program”, \$14,028,000 for the fiscal year 1992 and \$14,700,000 for the fiscal year 1993.

* * * * *

(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated \$2,000,000 for the fiscal year 1992, of which not more than \$1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

* * * * *

SEC. 223. USIA CULTURAL CENTER IN KOSOVO.

(a) ESTABLISHMENT.—The Director of the United States Information Agency shall establish a cultural center in the capital of Kosovo in Yugoslavia when the Secretary of State determines that the physical security of the center and the personal safety of its employees may be reasonably assured.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until a center is established under subsection (a), the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs³ of the House of Representatives on progress toward establishment of a center pursuant to subsection (a), including an assessment by the Secretary of State of the risks to physical and personal security of the establishment of such a center.

* * * * *

SEC. 225.⁴ * * * [Repealed—1992]

SEC. 226.⁵ ENHANCED EDUCATIONAL EXCHANGE PROGRAM.

(a) PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.—

³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁴Formerly at 22 U.S.C. 2452 note. Sec. 225 established the “Eastern Europe Student Exchange Endowment Fund”. Sec. 807(c) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3354) repealed sec. 225, effective 6 months after the date of enactment of that Act (October 24, 1992). For text of sec. 225, see 105 Stat. 699.

(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

SEC. 227.⁵ LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.⁶

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the

⁵ 22 U.S.C. 2452 note.

⁶ Sec. 2413(b)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832) inserted “INDEPENDENT STATES OF THE FORMER” in the section catchline.

independent states of the former Soviet Union,⁷ Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the independent states of the former Soviet Union,⁷ Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the independent states of the former Soviet Union,⁷ Lithuania, Latvia, and Estonia, particularly business administration, economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

⁷Sec. 2413(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832) struck out "Soviet Union" and inserted in lieu thereof "independent states of the former Soviet Union" in subsecs. (a), (b), and (c)(5).

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the independent states of the former Soviet Union,⁸ Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d) FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the United States Information Agency \$7,000,000 for fiscal year 1992, and \$7,000,000 for fiscal year 1993, to carry out this section.

(e) COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)⁹ DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

(1) The scholarship program established by this section shall be known as the “Edmund S. Muskie Fellowship Program”.

(2) Scholarships provided under this section shall be known as “Muskie Fellowships”.

* * * * *

⁸Sec. 2413(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832) struck out “Soviet republics” and inserted in lieu thereof “independent states of the former Soviet Union”.

⁹Sec. 801 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3352) added subsec. (f).

c. Eisenhower Exchange Fellowship Act of 1990

Public Law 101-454 [S. 2017], 104 Stat. 1063, approved October 24, 1990; amended by Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-72 [S. 1465], 109 Stat. 776, December 23, 1995; Public Law 104-99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104-99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted against as Public Law 104-107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104-134 [Department of State and Related Agencies Appropriations Act, 1996, title IV of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321-36, approved April 26, 1996; and by Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

AN ACT To provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Eisenhower Exchange Fellowship Act of 1990”.

SEC. 2.² PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower’s leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America’s need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower’s name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower’s crusade to liberate the people’s³ of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange

¹20 U.S.C. 5201 note.

²20 U.S.C. 5201.

³So in original. Should read peoples.

Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3.⁴ EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the “fund”). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) **INVESTMENT IN INTEREST BEARING OBLIGATIONS.**—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests⁵ by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other than interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) **SALE AND REDEMPTION OF OBLIGATIONS.**—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) **CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4.⁶ EXPENDITURE AND AUDIT OF TRUST FUND.

(a) **AUTHORIZATION OF FUNDING.**—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) **ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.**—The activities of Eisenhower Exchange Fellowships, In-

⁴ 20 U.S.C. 5202.

⁵ Should probably read “interest”.

⁶ 20 U.S.C. 5203.

corporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5.⁷ AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

- (1) \$2,500,000, or
- (2) the lesser of—
 - (A) \$2,500,000, or
 - (B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6.⁸ USE OF INCOME ON THE ENDOWMENT.

(a) * * * [Repealed—1996]

(b) * * * [Repealed—1996]

(c) **AGRICULTURAL EXCHANGE PROGRAM.**—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

⁷20 U.S.C. 5204. The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided the following:

“EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

“For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2001, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.”

⁸20 U.S.C. 5205.

⁹Sec. 407 of the Department of State and Related Agencies Appropriations Act, 1996 (title IV of Public Law 104-134; 110 Stat. 1321-45) repealed subsecs. (a) and (b), which had read as follows:

“(a) **REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.**—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

“(b) **LIMITATION ON STUDY IN UNITED STATES.**—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.”

Sec. 407 of Public Law 104-134 (22 U.S.C. 5203 note), furthermore, provided the following: “SEC. 407. Sections 6(a) and 6(b) of Public Law 101-454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.”

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representatives of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7.¹⁰ REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8.¹¹ * * * [Repealed—1995]

SEC. 9.¹² FASCELL FELLOWSHIP PROGRAM. * * *

* * * * *

¹⁰20 U.S.C. 5206.

¹¹Sec. 1 of Public Law 104-72 (109 Stat. 776) repealed sec. 8, relating to the extension of au pair programs. Sec. 1 further provided the following:

“(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis, through fiscal year 1997.

“(c) REPORT.—Not later than October 1, 1996, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.”

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (as enacted by reference in sec. 301 of Public Law 104-99; 110 Stat. 26), amended sec. 8 (after its repeal) to extend the authority therein to fiscal year 1996.

¹²Sec. 9 consisted entirely of amendments to the Fascell Fellowship Act (22 U.S.C. 4901 et seq.), and have been incorporated into that Act.

d. Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1047, approved November 22, 1983; amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

* * * * *

TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION¹

SHORT TITLE

SEC. 801.¹ This title may be cited as the “Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983”.

FINDINGS AND DECLARATIONS

SEC. 802.² The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union³ is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Europe and the independent states of the former Soviet Union³ depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

¹ 22 U.S.C. 4501 note. Sec. 302(1) and (2) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) amended and restated the title heading and the short title in section 801. Each formerly referred to “Soviet-Eastern European Research and Training”.

² 22 U.S.C. 4501.

³ In paras. (1), (2), and (3)(E) of this section, sec. 302 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out “Soviet Union and Eastern European countries”, and inserted in lieu thereof “countries of Eastern Europe and the independent states of the former Soviet Union”.

- (A) graduate training;
 - (B) advanced research;
 - (C) public dissemination of research data, methods, and findings;
 - (D) contact and collaboration among Government and private specialists; and
 - (E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union³ by American specialists, including on site conduct of advanced training and research to the extent practicable; and
- (4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

DEFINITIONS

SEC. 803.⁴ As used in this title—

- (1) the term “institution of higher education” has the same meaning given such term in section 101⁵ of the Higher Education Act of 1965; and
- (2) the term “Advisory Committee” means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union⁶ established by section 804(a).

ESTABLISHMENT OF ADVISORY COMMITTEE⁷

SEC. 804.⁷ (a) There is established within the Department of State the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union⁸ which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.⁹

⁴22 U.S.C. 4502.

⁵Sec. 102(a)(7)(C) of Public Law 105-244 (112 Stat. 1619) struck out “1201(a)” and inserted in lieu thereof “101”.

⁶Sec. 302(4) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out “Soviet-Eastern European Studies Advisory Committee” and inserted in lieu thereof “Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union”.

⁷22 U.S.C. 4503. Sec. 302(5)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “THE SOVIET-EASTERN EUROPEAN STUDIES” before “ADVISORY COMMITTEE” in the section heading.

⁸Sec. 302(5)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “Soviet-Eastern European Studies Advisory Committee”, and inserted in lieu thereof “Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union”.

⁹The functions conferred upon the Secretary of State by this subsection are delegated to the Assistant Secretary of State for Intelligence and Research, pursuant to State Department Delegation of Authority No. 208 of November 30, 1993 (Public Notice 1924; 59 F.R. 1054; January 7, 1994).

(b) The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

(c) The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this title.

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union¹⁰ and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

AUTHORITY TO MAKE PAYMENTS

SEC. 805.¹¹ (a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this title.¹²

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this title after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union¹³ and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

¹⁰Sec. 302(5)(C) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out "Soviet and Eastern European countries", and inserted in lieu thereof "the countries of Eastern Europe and the independent states of the former Soviet Union".

¹¹22 U.S.C. 4504.

¹²The functions of making payments conferred upon the Secretary of State by this subsec. were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

¹³Sec. 302(6)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out "Soviet and Eastern European studies", and inserted in lieu thereof "studies on the countries of Eastern Europe and the independent states of the former Soviet Union" in paras. (2)(A), (2)(B), and (6) of sec. 805(b).

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on studies on the countries of Eastern Europe and the independent states of the former Soviet Union¹³ and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields¹⁴ to conduct advanced research with particular emphasis upon the use of data on those states and countries;¹⁵ and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields.¹⁴

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the independent states of the former Soviet Union¹⁶ and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in those states and countries.¹⁷

(5) One part of the payments made in each fiscal year shall be used to support “training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.¹⁸ Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian

¹⁴Sec. 302(6)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “fields of Soviet and Eastern European studies and related studies”, and inserted in lieu thereof “independent states of the former Soviet Union and the countries of Eastern Europe and related fields” in paras. (3)(A) and (3)(B) of sec. 805(b).

¹⁵Sec. 302(6)(C) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “the Soviet Union and Eastern European countries”, and inserted in lieu thereof “those states and countries”.

¹⁶Sec. 302(6)(D)(i) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “Union of Soviet Socialist Republics”, and inserted in lieu thereof “independent states of the former Soviet Union”.

¹⁷Sec. 302(6)(D)(ii) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “the Union of Soviet Socialist Republics and Eastern European countries”, and inserted in lieu thereof “those states and countries”.

¹⁸Sec. 302(6)(E)(i) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “language training in Russian and Eastern European languages.”, and inserted in lieu thereof “training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.”

language studies and, as appropriate, studies of other languages of the independent states of the former Soviet Union.¹⁹

(6) Payments may be made to carry out other research and training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union¹³ not otherwise described in this section.

APPLICATIONS; PAYMENTS TO ELIGIBLE ORGANIZATIONS

SEC. 806.²⁰ (a) Any institution seeking funding under this title shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 805; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this title, and (B) to ensure the verification of the costs of the continuing education and research programs conducted under this title.

(b) Payments under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

REPORT

SEC. 807.²¹ The Secretary of State shall prepare and submit to the President and the Congress at the end of each fiscal year in which an institution receives assistance under this title a report of the activities of such institution supported by such assistance, if the administrative expenses of such institution which are covered by such assistance represent more than 10 percent of such assistance, together with such recommendations as the Advisory Committee deems advisable.

FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 808.²² Nothing contained in this title may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

¹⁹Sec. 302(6)(E)(ii) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) inserted “and, as appropriate, studies of other languages of the independent states of the former Soviet Union”.

²⁰22 U.S.C. 4505.

²¹22 U.S.C. 4506.

²²22 U.S.C. 4507.

ALLOCATION OF FUNDS

SEC. 809.²³ Of the funds authorized to be appropriated by section 102(1) of this Act—²⁴

(1) up to \$5,000,000 for the fiscal year 1984 shall be available to carry out this title; and

(2) \$5,000,000 for the fiscal year 1985 shall be available only to carry out this title.

TERMINATION

SEC. 810.²⁵ * * * [Repealed—1991]

²³ 22 U.S.C. 4508.

Previous years' authorizations were: fiscal year 1986—\$4,800,000; fiscal year 1987—\$5,000,000; fiscal year 1988—\$4,600,000; fiscal year 1989—\$5,000,000; fiscal year 1990—\$4,600,000; fiscal year 1991—\$5,200,000; fiscal year 1992—\$4,784,000; fiscal year 1993—\$5,025,000.

²⁴ Sec. 102(1) authorized funds for "Administration of foreign affairs" within the Department of State for fiscal years 1984 and 1985. Authorizations for "Soviet-East European Research and Training" in following years appeared in State Department Authorization Acts for those years.

²⁵ Formerly at 22 U.S.C. 4509. Sec. 810 was repealed by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 694). It had provided that "The provisions of this title shall cease to be effective at the end of the 10-year period beginning on the date of enactment of this title."

10. United States—India Programs

a. United States-India Fund for Cultural, Educational, and Scientific Cooperation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1051, approved November 22, 1983; as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; and by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 1987

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

* * * * *

TITLE IX—UNITED STATES—INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

SHORT TITLE

SEC. 901. This title may be cited as the “United States-India Fund for Cultural, Educational, and Scientific Cooperation Act”.

ESTABLISHMENT OF THE FUND

SEC. 902.¹ (a) The President² is authorized to enter into an agreement with the Government of India for the establishment of a fund (hereafter in this title referred to as the “Fund”) which would provide grants and other assistance for cultural, educational, and scientific programs of mutual interest. Such programs may include exchanges of persons, exchanges of information, and other programs of study, research, and scholarly cooperation. The agreement may also provide for the establishment of an endowment, a foundation, or other means to carry out the purposes of the agreement.

(b) The United States representatives on any board or other entity created in accordance with the agreement to administer the Fund shall be designated by the President predominately from among representatives of United States Government agencies, including those administering programs which may be supported in whole or in part by the Fund.

¹22 U.S.C. 290j.

²Executive Order 12517 of May 29, 1985, delegated all functions vested in the President by this Act to the Secretary of State.

(c) United States Government agencies carrying out programs of the types specified in subsection (a) may receive amounts directly from the Fund for use in carrying out those programs.

USE OF UNITED STATES OWNED RUPEES TO CAPITALIZE THE FUND

SEC. 903.³ (a) Subject to applicable requirements concerning reimbursement to the Treasury for United States owned foreign currencies, the President may make available to the Fund, for use in carrying out the agreement authorized by section 902, up to the equivalent of \$200,000,000 in foreign currencies owned by the United States in India or owed to the United States by the Government of India. Such use may include investment in order to generate interest which would be retained in the Fund and used to support programs pursuant to that agreement.

(b)⁴ In accordance with the agreement negotiated pursuant to section 902(a), sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1985, and any earnings on such sums shall be available for the purposes of section 902(a).

³22 U.S.C. 290j-1.

⁴Subsec. (b), originally added by Public Law 99-93 (99 Stat. 405), was amended and restated by sec. 305 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1379).

b. Delegation Concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation

Executive Order 12517 of May 29, 1985, 50 F.R. 23105, 22 U.S.C. 290j note

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation to the Secretary of State it is hereby ordered as follows:

Section 1. All functions vested in the President by the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (Title IX of Public Law 98-164, 97 Stat. 1051; "the Act") are delegated to the Secretary of State.

Sec. 2. India rupees provided to the President for purposes of Title IX of the Act and under Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98-411, 98 Stat. 1545) are allocated to the Secretary of the Treasury for investment to generate earnings for purposes of Title IX of the Act.

11. Dante B. Fascell North-South Center Act of 1991

Sec. 208 of Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647 at 694, approved October 28, 1991; amended by Public Law 106-29 [Dante B. Fascell North-South Center Act; H.R. 432], 113 Stat. 54, approved May 21, 1999

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

* * * * *

SEC. 208.¹ CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

(a) **SHORT TITLE.**—This section may be cited as the “Dante B. Fascell North-South Center Act of 1991”.

(b) **PURPOSE.**—The purpose of this section is to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities consistent with the objectives of the Mutual Educational and Cultural Exchange Act of 1961 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

(c)² **DANTE B. FASCELL NORTH-SOUTH CENTER.**—In order to carry out the purpose of this section, the Director of the United States Information Agency shall provide for the operation in Florida of an educational institution which shall be known and designated as the Dante B. Fascell North-South Center,³ through arrangements with public, educational, or other nonprofit institutions.

(d) **AUTHORITIES.**—The Director of the United States Information Agency, in carrying out this section, may utilize the authorities of the Mutual Educational and Cultural Exchange Act of 1961. Section 704(b) of the Mutual Security Act of 1960 (22 U.S.C. 2056(b)) shall apply in the administration of this section. In order to carry out the purposes of this section, the Dante B. Fascell North-South

¹22 U.S.C. 2075. Sec. 1(1) of Public Law 106-29 (113 Stat. 54) restated subsec. (a) to strike out “North/South Center Act of 1991” and insert in lieu thereof “Dante B. Fascell North-South Center Act of 1991”.

See also establishment of the International University for the Americas, sec. 604 of Public Law 102-549 (106 Stat. 3671; 22 U.S.C. 2077), in *Legislation on Foreign Relations Through 2001*, vol. I-A.

²Sec. 1(2)(A) of Public Law 106-29 (113 Stat. 54) struck out “North/South Center” and insert in lieu thereof “Dante B. Fascell North-South Center” in the subsec. heading.

³Sec. 1(2)(B) of Public Law 106-29 (113 Stat. 54) struck out “known as the North/South Center,” and inserted in lieu thereof “which shall be known and designated as the Dante B. Fascell North-South Center”.

Center⁴ is authorized to use funds made available under this section to acquire property and facilities, by construction, lease, or purchase.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for fiscal year 1992 and \$10,000,000 for each subsequent fiscal year to carry out this section. Amounts appropriated under this section are authorized to be available until expended.⁵

(f) REPEAL.—Effective October 1, 1991, the section enacted by the third proviso under the heading “EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE” in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is repealed.⁶

⁴Sec. 1(3) of Public Law 106-29 (113 Stat. 54) struck out “North/South Center” and inserted in lieu thereof “Dante B. Fascell North-South Center”.

⁵Sec. 104(a)(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

“(3) DANTE B. FASCELL NORTH-SOUTH CENTER.—For “Dante B. Fascell North-South Center” \$2,500,000 for the fiscal year 2000 and \$2,500,000 for the fiscal year 2001.”

⁶Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1984) provided the following:

“EDUCATION AND HUMAN RESOURCES

“DEVELOPMENT, DEVELOPMENT ASSISTANCE

“For necessary expenses to carry out the provisions of section 105, \$134,201,000: *Provided* * * * *further*, That \$10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted: * * *”.

12. Center for Cultural and Technical Interchange Between East and West Act of 1960

Partial text of Public Law 86-472 [Mutual Security Act of 1960; H.R. 11510], 74 Stat. 134, approved May 14, 1960, as amended

* * * * *

CHAPTER VII—CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

SEC. 701. This chapter may be cited as the “Center for Cultural and Technical Interchange Between East and West Act of 1960”.

SEC. 702.¹ The purpose of this chapter is to promote better relations and understanding between the United States and the nations of Asia and the Pacific (hereinafter referred to as “the East”) through cooperative study, training, and research, by establishing in Hawaii a Center for Cultural and Technical Interchange Between East and West where scholars and students in various fields from the nations of the East and West may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948, as amended, title III of chapter II of the Mutual Security Act of 1954, and other Acts promoting the international, educational, cultural, and related activities of the United States.

SEC. 703.² In order to carry out the purpose of this chapter the Secretary of State³ (hereinafter referred to as the “Secretary”) shall provide for—

- (1) the establishment and operation in Hawaii of an educational institution to be known as the Center for Cultural and Technical Interchange Between East and West, through ar-

¹22 U.S.C. 2054.

²22 U.S.C. 2055.

³Pursuant to sec. 7(a) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.” See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

rangements with public, educational, or other nonprofit institutions;

(2) grants, fellowships, and other payments to outstanding scholars and authorities from the nations of the East and West as may be necessary to attract such scholars and authorities to the Center;

(3) grants, scholarships, and other payments to qualified students from the nations of the East and West as may be necessary to enable such students to engage in study or training at the Center; and

(4) making the facilities of the Center available for study or training to other qualified persons.

SEC. 704.⁴ (a) In carrying out the provisions of this chapter, the Secretary³ may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended.

(b) The Secretary³ may, in administering the provisions of this chapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Secretary³ the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the Foreign Service Institute under the provisions of section 25 of the State Department Basic Authorities Act of 1956.⁵ For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary³ under the authority of this chapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c)⁶ The Director of the United States Information Agency⁷ shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this chapter, and such reports shall include any recommendations for needed revisions in this chapter.

⁴22 U.S.C. 2056.

⁵This reference to the State Department Basic Authorities Act of 1956 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(8) of Public Law 96-465 (94 Stat. 2162).

⁶Subsec. (c) was amended and restated by sec. 212(b) of Public Law 96-470 (94 Stat. 2246). The report to be submitted under subsec. (c) was formerly required annually.

⁷Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

SEC. 705.⁸ There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the provisions of this chapter.

⁸ 22 U.S.C. 2057. The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“EAST-WEST CENTER

“To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$13,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.”

13. Japan-United States Friendship Act

Public Law 94-118 [S. 824], 89 Stat. 603, approved October 20, 1975, as amended by Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 298, approved August 24, 1982; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 105-277 [Department of State and Related Agencies Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681-92, approved October 21, 1998

AN ACT To provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Japan-United States Friendship Act”.

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2.¹ (a) The Congress hereby finds that—

(1) the post-World War II evolution of the relationship between Japan and the United States to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(2) the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971,² is a major achievement and symbol of the new relationship between the United States and Japan; and

(3) the continuation of close United States-Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world.

(b) It is therefore the purpose of this Act to provide for the use of an amount equal to a part of the total sum payable by Japan to the United States in connection with the reversion of Okinawa to Japanese administration and the remaining funds of the amount set aside in 1962 for educational and cultural exchange with Japan (known as the G.A.R.I.O.A. Account) to aid education and culture at the highest level in order to enhance reciprocal people-to-people understanding and to support the close friendship and mutuality of interests between the United States and Japan.

¹22 U.S.C. 2901.

²23 U.S.T. 446.

ESTABLISHMENT OF THE FUND; EXPENDITURES

SEC. 3.³ (a) There is established in the Treasury of the United States a trust fund to be known as the Japan-United States Friendship Trust Fund (hereafter referred to as the "Fund").

(b) Amounts in the Fund shall be used for the promotion of scholarly, cultural, and artistic activities between Japan and the United States, including—

(1) support for studies, including language studies, in institutions of higher education or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

(2) support for major collections of Japanese books and publications in appropriate libraries located throughout the United States and similar support for collections of American books and publications in appropriate libraries located throughout Japan;

(3) support for programs in the arts in association with appropriate institutions in Japan and the United States;

(4) support for fellowships and scholarships at the graduate and faculty levels in Japan and the United States in accord with the purposes of this Act;

(5) support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

(6) support for other Japan-United States cultural and educational activities consistent with the purposes of this Act.

(c) Amounts in the Fund may also be used to pay administrative expenses of the Japan-United States Friendship Commission, established by section 4 of this Act, as directed by that Commission.

(d) There is authorized to be appropriated to the Fund, for fiscal year 1976, an amount equal to 7.5 per centum of the total fund payable to the United States pursuant to the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971, including interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.⁴

(e)(1) There is authorized to be appropriated to the Fund, for fiscal year 1976, in addition to the amount authorized to be appropriated by subsection (d) of this section, those funds available in United States accounts in Japan and transferred by the Government of Japan to the United States pursuant to the United States request made under article V of the agreement between the United States of America and Japan regarding the settlement of Postwar Economic Assistance to Japan, signed in Tokyo, January 9, 1962, and the exchange of notes of the same date (13 U.S.T. 1957; T.I.A.S. 5154) (the G.A.R.I.O.A. Account), including interest accruing to the G.A.R.I.O.A. Account and interest and proceeds accruing

³22 U.S.C. 2902.

⁴The words to this point beginning with "including interest and proceeds accruing * * *", were added by sec. 401(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.⁵

(2) The amount authorized to be appropriated by paragraph (1) of this subsection shall not include any amount required by law to be applied to United States participation in the International Ocean Exposition to be held in Okinawa, Japan.

(3) Any unappropriated portion of the amount authorized to be appropriated by subsection (d) of this section and paragraph (1) of this subsection for fiscal year 1976 may be appropriated in any subsequent fiscal year.

THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 4.⁶ (a) There is established a commission to be known as the Japan-United States Friendship Commission (hereafter referred to as the "Commission"). The Commission shall be composed of—

(1) the members of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation;

(2) two Members of the House of Representatives, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the Speaker of the House of Representatives;

(3) two Members of the Senate, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the President pro tempore of the Senate;

(4) the Chairman of the National Endowment for the Arts; and

(5) the Chairman of the National Endowment for the Humanities.

(b) Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Chairman of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation shall be the Chairman of the Commission. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least twice in each year.

FUNCTIONS OF THE COMMISSION

SEC. 5.⁷ (a) The Commission is authorized to—

⁵The words to this point beginning with "and interest and proceeds accruing to the Fund * * *", were added by sec. 401(3) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

⁶22 U.S.C. 2903.

⁷22 U.S.C. 2904.

(1) develop and carry out programs at public or private institutions for the promotion of scholarly, cultural, and artistic activities in Japan and the United States consistent with the provisions of section 3(b) of this Act; and

(2) make grants to carry out such programs.

(b) The Commission shall submit to the President and to the Congress an annual report of its activities under this Act together with such recommendations as the Commission determines appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 6.⁸ In order to carry out its functions under this Act, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this Act, and any such donation shall be exempt from any Federal income, State, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, State, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund⁹ to carry out the purposes of this Act, including the payment of Commission expenses if needed;¹⁰

(5) appoint an Executive Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who shall be compensated at the rate provided for a GS-18 of the General Schedule of such title;

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate

⁸ 22 U.S.C. 2905.

⁹ The words to this point beginning with “, any amount of the contributions deposited * * *” were substituted in lieu of the words “and not to exceed 5 per centum annually of the principal of the Fund” by sec. 503(a) of Public Law 97-241 (96 Stat. 298).

¹⁰ Sec. 404(a) of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-101) struck out “needed, except that any amounts expended from amounts appropriated to the Fund under section 3(e)(1) of this Act shall be expended in Japan or for not more than 50 percent of administrative expenses in the United States”, and inserted in lieu thereof “needed”.

Previously, sec. 167 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), inserted “or for not more than 50 percent of administrative expenses in the United States” after “Japan”.

specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code;

(7) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) enter into contracts, grants, or other arrangements, or modifications thereof;

(9) make advances, progress, and other payments which the Commission deems necessary under this Act;

(10) obtain¹¹ such administrative support services and personnel as the Commission deems necessary and appropriate to its needs; and

(11)¹² transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code.

MANAGEMENT OF THE FUND

SEC. 7.¹³ (a) The Fund shall consist of—

(1) amounts appropriated under section 3(d) and (e)(1) of this Act;

(2) any other amounts received by the Fund by way of gifts and donations; and

(3) interest and proceeds credited to it under subsection (b) of this section.

(b) It shall be the duty of the Secretary of the Treasury (hereafter referred to as the “Secretary”) to invest such portion of the Fund as is not, in the judgment of the Commission, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.¹⁴ For such purposes, the obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act,¹⁵ as amended, are hereby extended to authorize the issuance at par of

¹¹ Sec. 401(1) of the Foreign Relations Authorization Act, Fiscal Year 1977, struck out the words “from the Secretary of State, on a reimbursable basis,” which had formerly appeared at this point.

¹² Paragraph (11) was added by sec. 703 of Public Law 95-426 (92 Stat. 992).

¹³ 22 U.S.C. 2906.

¹⁴ Sec. 404(b) of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-101) struck out “Such investment of amounts authorized to be appropriated under section 3(d) of this Act may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.” and inserted in lieu thereof “Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.”

Previously, sec. 401(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 1977, added the words “of amounts authorized to be appropriated under sec. 3(d) of this Act” in the now-stricken language.

¹⁵ 31 U.S.C. 774.

special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States issued during the preceding two years then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) In accordance with section 6(4) of this Act, the Secretary shall pay out of the Fund such amounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this Act; except that amounts in the Fund, other than amounts which have been appropriated and amounts received (including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)¹⁶ by the Commission pursuant to sections 6(2) and 6(3), shall be subject to the appropriation process.

NOTE.—Conferees of the Omnibus Consolidated Appropriations Act, 1997, provided the following in the Conference Report [House Report 104-863, September 28, 1996, star print] to accompany H.R. 3610:

“JAPAN-UNITED STATES FRIENDSHIP COMMISSION

“JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

“The conference agreement does not provide an appropriation for the Japan-United States Friendship Commission, as proposed in the House bill, instead of \$1,250,000 from interest earned on the Japan-United States Friendship Trust Fund and an amount of Japanese currency not to exceed the equivalent of \$1,420,000 for the expenses of the Japan-United States Friendship Commission, as provided in the Senate-reported bill.

“Under terms of Public Law 94-118, which established the Commission, it was authorized to spend up to five percent of the principal of the Japan-United States Friendship Trust Fund. Since 1990, however, the Commission has operated under a policy of not spending funds out of the principal and relying on appropriations of interest earned on the Fund to finance its operations, supplemented by gifts from outside sources.

“The conferees believe that, in this time of fiscal restraint, it makes better sense for the Commission to operate on a self-financing basis, as was apparently envisioned in the original legislation, by spending five percent of its Fund capital per year. The Fund currently contains approximately \$15,000,000. These funds, together with funds obtained from outside sources, would allow the Commission to maintain its highest priority activities without the need for annual appropriations. Any interest earnings of the fund that accrue in the Commission’s account will be considered to be original principal.”.

¹⁶The parenthetical phrase was added by sec. 503(b) of Public Law 97-241 (96 Stat. 298).

14. Exchange of Materials and Objects

a. Implementation of the Beirut Agreement of 1949 Relating to Audio-Visual Materials

Partial text of Public Law 89-634 [H.J. Res. 688], 80 Stat. 879, approved October 8, 1966; amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991

JOINT RESOLUTION To give effect to the Agreement for facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character, approved at Beirut in 1948.

Whereas the Congress and the President have repeatedly declared it to be a national policy to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries; and

Whereas the General Conference of the United Nations Educational, Scientific, and Cultural Organization of its third session at Beirut, Lebanon, in 1948, approved and recommended to member states for signature, an Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character, which Agreement has been signed by twenty-one nations, including the United States; and

Whereas the Senate has given its advice and consent to the ratification of the Agreement; and

Whereas the Congress does hereby determine that mutual understanding between peoples will be augmented by the measures provided for in said Agreement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The¹ President of the United States is authorized to designate a Federal agency or agencies which shall be responsible for carrying out the provisions of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character and a related protocol of signature, opened for signature at Lake Success on July 15, 1949 (hereinafter in this Act referred to as the "Agreement"). It shall be the duty of the Federal agency or agencies so designated to take appropriate measures for the carrying out the provisions of the Agreement including the issuance of regulations.² In carrying out this section, such Federal agency or agencies may not consider vis-

¹ 19 U.S.C. 2051.

² Sec. 207 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 693), added text from this point to the end of sec. 1.

ual or auditory material to fail to qualify as being of international educational character—

(1) because it advocates a particular position or viewpoint, whether or not it presents or acknowledges opposing viewpoints;

(2) because it might lend itself to misinterpretation, or to misrepresentation of the United States or other countries, or their people or institutions;

(3) because it is not representative, authentic, or accurate or does not represent the current state of factual knowledge of a subject or aspect of a subject unless the material contains widespread and gross misstatements of fact;

(4) because it does not augment international understanding and goodwill, unless its primary purpose or effect is not to instruct or inform through the development of a subject or an aspect of a subject and its content is not such as to maintain, increase, or diffuse knowledge; or

(5) because in the opinion of the agency the material is propaganda.

Such Federal agency or agencies may not label as propaganda any material that receives a certificate of international educational character under this section and the Agreement.

Sec. 2.³ Agencies of the Federal Government are authorized to furnish facilities and personnel for the purpose of assisting the agency or agencies designated by the President in carrying out the provisions of the Agreement.

Sec. 3.⁴ * * *

³ 19 U.S.C. 2052.

⁴ Sec. 3 amended the Tariff Schedules of the United States.

**b. Carrying Out Provisions of the Beirut Agreement of 1949
Relating to Audio-Visual Materials**

**Executive Order 11311, October 14, 1966, 31 F.R. 13413, 3 CFR, 1966-70
Comp., p. 593, 19 U.S.C. 2051 note**

By virtue of the authority vested in me as President of the United States, including the provisions of the Joint Resolution of October 8, 1966, Public Law 89-634, and section 301 of Title 3 of the United States Code, I hereby order and proclaim that—

1. Pursuant to section 3(b) of the Joint Resolution, the amendments to the Tariff Schedules of the United States made by section 3(a) of the Joint Resolution shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, on and after January 1, 1967.

2. Pursuant to the “Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character”, made at Beirut in 1948, the Joint Resolution, and headnote 1 to schedule 8, part 6 of the Tariff Schedules of the United States, the United States Information Agency is hereby designated as the agency to carry out the provisions of the Agreement and related protocol, and to make any determinations and to prescribe any regulations required by headnote 1.

**c. Exemption From Judicial Seizure of Cultural Objects
Imported for Temporary Exhibition**

(1) **Public Law 89-259 [S. 2273], 79 Stat. 985, approved October 19, 1965**¹

AN ACT To render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) whenever any work of art or other object of cultural significance is imported into the United States from any foreign country, pursuant to an agreement entered into between the foreign owner or custodian thereof and the United States or one or more cultural or educational institutions within the United States providing for the temporary exhibition or display thereof within the United States at any cultural exhibition, assembly, activity, or festival administered, operated, or sponsored, without profit, by any such cultural or educational institution, no court of the United States, any State, the District of Columbia, or any territory or possession of the United States may issue or enforce any judicial process, or enter any judgment, decree, or order, for the purpose or having the effect of depriving such institution, or any carrier engaged in transporting such work or object within the United States of custody or control of such object if before the importation of such object the President or his designee has determined that such object is of cultural significance and that the temporary exhibition or display thereof within the United States is in the national interest, and a notice to that effect has been published in the Federal Register.

(b) If in any judicial proceeding in any such court any such process, judgment, decree, or order is sought, issued, or entered, the United States attorney for the judicial district within which such proceeding is pending shall be entitled as of right to intervene as a party to that proceeding, and upon request made by either the institution adversely affected, or upon direction by the Attorney General if the United States is adversely affected, shall apply to such court for the denial, quashing, or vacating thereof.

(c) Nothing contained in this Act shall preclude (1) any judicial action for or in aid of the enforcement of the terms of any such agreement or the enforcement of the obligation of any carrier under any contract for the transportation of any such object of cultural significance; or (2) the institution or prosecution by or on behalf of any such institution or the United States of any action for or in aid of the fulfillment of any obligation assumed by such institution or the United States pursuant to any such agreement.

¹ 22 U.S.C. 2459.

(2) Imported Objects of Cultural Significance

Executive Order 12047, March 27, 1978, 43 F.R. 13359, 22 U.S.C. 2459 note; as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245

By virtue of the authority vested in me by the Act of October 19, 1965, entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes" (79 Stat. 985, 22 U.S.C. 2459), and as President of the United States of America, it is hereby ordered as follows:

Section 1. The Director of the United States Information Agency¹ is designated and empowered to perform the functions conferred upon the President by the above-mentioned Act and shall be deemed to be authorized, without the approval, ratification, or other action of the President, (1) to determine that any work of art or other object to be imported into the United States within the meaning of the Act is of cultural significance, (2) to determine that the temporary exhibition or display of any such work of art or other object in the United States is in the national interest, and (3) to cause public notices of the determinations referred to above to be published in the Federal Register.

Sec. 2. The Director of the United States Information Agency,¹ in carrying out this Order, shall consult with the Secretary of State with respect to the determination of national interest, and may consult with the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, and with such other officers and agencies of the Government as may be appropriate, with respect to the determination of cultural significance.

Sec. 3. The Director of the United States Information Agency¹ is authorized to delegate within the Agency the functions conferred upon him by this Order.

Sec. 4. Executive Order No. 11312 of October 14, 1966 is revoked.²

¹The references to the United States Information Agency were inserted in lieu of references to the International Communication Agency by sec. 1 of Executive Order 12388.

Sec. 5. Any order, regulation, determination or other action which was in effect pursuant to the provisions of Executive Order No. 11312 shall remain in effect until changed pursuant to the authority provided in this Order.

Sec. 6. This Order shall be effective on April 1, 1978.

²Executive Order 11312, effective October 14, 1966, had delegated the authorities under this executive order to the Secretary of State. With the establishment of the International Communication Agency (since redesignated as the United States Information Agency) on April 1, 1978, these functions were redelegated to the Director of the Agency.

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

15. Convention on Cultural Property Implementation Act

Partial text of Public Law 97-446 [H.R. 4566], 96 Stat. 2329, approved January 12, 1983; as amended by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

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

* * * * *

TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 301. SHORT TITLE.

This title may be cited as the “Convention on Cultural Property Implementation Act”.¹

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term “agreement” includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term “archaeological or ethnological material of the State Party” means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old; and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

¹ 19 U.S.C. 2601.

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 206.²

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(8) The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

SEC. 303.³ AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—

(1)⁴ IN GENERAL.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

²This reference to sec. 206 should probably be a reference to sec. 306.

³19 U.S.C. 2602.

⁴The functions conferred upon the President by sec. 303(a)(1) concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475).

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 307 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes; the President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2)⁵ AUTHORITY OF PRESIDENT.—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 307 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) REQUESTS.—A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.” See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

⁵The functions conferred upon the President by secs. 303(a)(2) and 303(a)(4) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

(4)⁵ IMPLEMENTATION.—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) RESTRICTIONS ON ENTERING INTO AGREEMENTS.—

(1) IN GENERAL.—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) EXCEPTION TO RESTRICTIONS.—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in deterring a serious situation of pillage.

(d)⁶ SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

⁶The functions conferred upon the President by sec. 303(d) with respect to the determinations concerning the failure of other parties to an agreement to take any or satisfactory implementation action on their agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). The Order required, however, that the Secretary of State remain responsible for interpretation of the agreement. To the extent they involve suspension of import restrictions, functions were delegated to the Secretary of the Treasury. See, however, note 4.

the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e)⁷ EXTENSION OF AGREEMENTS.—The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that—

- (1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and
- (2) no cause for suspension under subsection (d) exists.

(f)⁸ PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

- (1) publish notification of the request or proposal in the Federal Register;
- (2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and
- (3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 306(f) (1) or (2), and

(B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g)⁹ INFORMATION ON PRESIDENTIAL ACTION.—

(1) IN GENERAL.—In any case in which the President—

(A) enters into or extends an agreement pursuant to subsection (a) or (e), or

(B)¹⁰ applies import restrictions under section 204, the President shall, promptly after taking such action, submit a report to the Congress.

(2) REPORT.—The report under paragraph (1) shall contain—

⁷The functions conferred upon the President by sec. 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). Functions relating only to negotiation and conclusion of extensions of agreements under this Act were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury. See, however, note 4.

⁸The functions conferred upon the President by this sec. 303(f) relating to actions to be taken upon receipt of a request made by a State Party were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

⁹Except with respect to subsec. 303(g)(1)(B), the functions conferred upon the President by sec. 303(g) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

¹⁰The functions conferred upon the President by sec. 303(g)(1)(B) relating to the notification of Presidential action and furnishing of reports to Congress were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.—If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

SEC. 304.¹¹ EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) EMERGENCY CONDITION DEFINED.—For purposes of this section, the term “emergency condition” means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b)¹² PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 307 with respect to such material.

(c) LIMITATIONS.—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 303(a) to the United States and has supplied

¹¹ 19 U.S.C. 2603. The functions conferred upon the President by this section to the extent that they involve the application of import restrictions set forth in sec. 307 and the extension of such import restrictions pursuant to sec. 304(c)(3), were delegated to the Secretary of the Treasury, acting in consultation with the Director of the United States Information Agency and the Secretary of State, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

¹² The functions conferred upon the President by sec. 304(b) to the extent that they involve determinations by the President that an emergency condition applies with respect to any archaeological or ethnological material of any State Party to the Convention, subject to the limitations of secs. 304(c)(1), 304(c)(2) and 304(c)(3), were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 303(f)(2) on the request of the State Party under section 303(a).

(3)¹³ No import restrictions set forth in section 307 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 303(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4)¹⁴ The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203¹⁵ or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

SEC. 305.¹⁶ DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, in consultation with the Secretary of State,¹⁷ shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or

¹³The functions conferred upon the President by sec. 304(c)(3) to the extent that they involve determinations to be made and the receipt and consideration of an advisory report from the Cultural Property Advisory Committee by the President prior to extensions of emergency import restrictions were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

¹⁴The functions conferred upon the President by sec. 303(c)(4) to the extent that they involve the negotiation and conclusion of agreements subject to the advice and consent to ratification by the Senate were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

¹⁵This reference to sec. 203 probably should be a reference to sec. 303.

¹⁶19 U.S.C. 2604.

¹⁷Sec. 802(d) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "Secretary" and inserted in lieu thereof "Secretary, in consultation with the Secretary of State,".

Previously, sec. 1335(d) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out ", after consultation with the Director of the United States Information Agency," following "Secretary".

other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 307 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 306.¹⁸ CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**—There is established the Cultural Property Advisory Committee.

(b) **MEMBERSHIP.**—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A)¹⁹ Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.

(B)(i)²⁰ A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

(ii) The President shall designate a Chairman of the Committee from the members of the Committee.

¹⁸ 19 U.S.C. 2605.

¹⁹ Subsec. (3)(A) was amended and restated by sec. 307(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1380). Sec. 307(c) of the same Act made subsec. (3)(A) apply to those members of the Cultural Property Advisory Committee first appointed after enactment of Public Law 100-204.

²⁰ Subsec. (3)(B) was amended and restated by sec. 307(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1380).

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) REPORTS BY COMMITTEE.—

(1) The Committee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review;

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6)²¹ The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g)²² COMMITTEE REVIEW.—

(1) IN GENERAL.—The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) ACTION BY COMMITTEE.—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h)²³ FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or

²¹The functions conferred upon the President by sec. 306(f)(6) were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

²²The functions conferred upon the President by this subsec. relating to the receipt of reports were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

²³The functions conferred upon the President by this section relating to the determinations to be made about the disclosure of matters involved in the Committee's proceedings were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

(C) the Committee established under this title.

(2) **GOVERNMENTAL INFORMATION.**—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) **NO AUTHORITY TO NEGOTIATE.**—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

SEC. 307.²⁴ IMPORT RESTRICTIONS.

(a) **DOCUMENTATION OF LAWFUL EXPORTATION.**—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) **CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.**—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or ac-

²⁴ 19 U.S.C. 2606.

quired an interest, directly or indirectly, in such material more than one year before that date of entry, or

(B) on or before the date on which such material was designated under section 305.

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

(c) DEFINITION OF SATISFACTORY EVIDENCE.—The term “satisfactory evidence” means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.

(d) RELATED PERSONS.—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

SEC. 308.²⁵ STOLEN CULTURAL PROPERTY.

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 309.²⁶ TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property has been imported into the United States in violation of section 307 or section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 310.²⁷ SEIZURE AND FORFEITURE.

(a) **IN GENERAL.**—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) **ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.**—Any designated archaeological and ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the man-

²⁵ 19 U.S.C. 2607.

²⁶ 19 U.S.C. 2608.

²⁷ 19 U.S.C. 2609.

ner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and deliver, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.—

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 208, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 311.²⁸ EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and

(2) in the case of any article subject to section 308, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

²⁸ 19 U.S.C. 2610.

(B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 312.²⁹ CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled “An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes”, approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

²⁹ 19 U.S.C. 2611.

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

SEC. 313.³⁰ REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

SEC. 314.³¹ ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 315. EFFECTIVE DATE.

(a) **IN GENERAL.**—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

- (1) before such ninetieth day and after such date of enactment; and
- (2) after the initial membership of the Committee is appointed.

(b) **EXCEPTION.**—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 at any time after the date of the enactment of this Act.

³⁰ 19 U.S.C. 2612.

³¹ 19 U.S.C. 2613.

16. United States Recognition and Participation in International Expositions

Public Law 91-269 [S. 856], 84 Stat. 271, 22 U.S.C. 2801-2807, approved May 27, 1970; as amended by Public Law 97-254 [H.R. 6409], 96 Stat. 808, approved September 8, 1982

AN ACT To provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*¹ the Congress finds that—

(a) international expositions, when properly organized, financed, and executed, have a significant impact on the economic growth of the region surrounding the exposition and, under appropriate international sanction, are important instruments of national policy, particularly in the exchange of ideas and the demonstration of cultural achievements between peoples;

(b) in view of the widely varying circumstances under which international expositions have developed in the United States, the different degrees to which the Federal Government has assisted and participated in such expositions, and the increasing number of proposals for future expositions, the national interest requires that Federal action concerning such expositions be given orderly consideration; and

(c) such orderly consideration is best achieved by the development of uniform standards, criteria, and procedures to establish the conditions under which the Government hereafter will (A) recognize international expositions proposed to be held in the United States, and (B) take part in such expositions.

FEDERAL RECOGNITION

SEC. 2.² (a) Any international exposition proposed to be held in the United States shall be eligible on application from its sponsors to receive the recognition of the Federal Government upon a finding of the President that recognition will be in the national interest. In making such a finding the President shall consider—

(1) a report by the Secretary of Commerce which shall include (A) an evaluation of purposes and reasons for the exposition, and (B) a determination that guaranteed financial and other support has been secured by the exposition from affected State and local governments and from business and civic leadership of the region and others, in amounts sufficient in his

¹22 U.S.C. 2801.

²22 U.S.C. 2802.

judgment to assure the successful development and progress of the exposition;

(2) a report by the Secretary of State that the proposed exposition qualifies for consideration of registration by the Bureau of International Expositions (hereafter referred to as BIE); and

(3) such other evidence as the President may consider to be appropriate.

(b) Upon a finding by the President that an international exposition is eligible for Federal recognition, the President may take such measures recognizing the exposition as he deems proper, including, but not limited to—

(1) presenting of an official request by the United States for registration of the exposition by the BIE;

(2) providing for fulfillment of the requirements of the Convention of November 22, 1928, as amended, relating to international expositions; and

(3) extending invitations, by proclamation or by such other manner he deems proper, to the several States of the Union and to foreign governments to take part in the exposition, provided that he shall not extend such an invitation until he has been notified officially of BIE registration for the exposition.

(c) The President shall report his actions under this section promptly to the Congress.

FEDERAL PARTICIPATION

SEC. 3.³ (a)⁴ The Federal Government may participate in an international exposition proposed to be held in the United States only upon the authorization of the Congress. If the President finds that Federal participation is in the national interest, he shall transmit to the Congress his proposal for such participation, which proposal shall include—

(1)⁴ evidence that the international exposition has met the criteria for Federal recognition and, pursuant to section 2 of this Act, it has been so recognized;

(2)⁴ a statement that the international exposition has been registered by the BIE; and

(3)⁴ a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government for Federal participation in the exposition. The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section.⁵

(b)⁴ (1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be

³22 U.S.C. 2803.

⁴Sec. 16 of Public Law 97-254 (96 Stat. 812) inserted the subsec. designation "(a)", substituted the clause designations of (1), (2), and (3) in lieu of (a), (b), and (c), respectively, and added a new subsec. (b).

⁵Sec. 16 of Public Law 97-254 (96 Stat. 812) substituted this sentence in lieu of the final three sentences of clause (3).

constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the "Administrator") to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

(i) participation in the exposition; and

(ii) permanent use of such pavilion after the termination of participation in the exposition; and

(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

(c) The enactment of a specific authorization of appropriations shall be required—

(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

(d) For the purposes of this section—

(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.

ESTABLISHMENT AND PUBLICATION OF STANDARDS AND CRITERIA

SEC. 4.⁶ (a) The Secretary of Commerce is hereby authorized and directed to establish and maintain standards, definitions, and criteria which are adequate to carry out the purposes of section 2(a)(1) and section 3(a) of this Act; and

(b) Standards, definitions, and criteria established by the Secretary and such revisions in them as he may make from time to time shall be published in the Federal Register.

SEC. 5.⁷ The President may withdraw Federal recognition or participation whenever he finds that continuing recognition or participation would be inconsistent with the national interest and with the purposes of this Act.

SEC. 6.⁸ Nothing in this Act shall affect or limit the authority of Federal departments and agencies to participate in international expositions or events otherwise authorized by law.

SEC. 7. Section 8 of Public Law 89-685 is hereby repealed.

SEC. 8.⁹ There are authorized to be appropriated such sums, not to exceed \$200,000 in any fiscal year, as may be necessary to carry out the purposes of this Act.

⁶22 U.S.C. 2804.

⁷22 U.S.C. 2805.

⁸22 U.S.C. 2806.

⁹22 U.S.C. 2807.

17. International Broadcasting

a. United States International Broadcasting Act of 1994

Title III of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 432, approved April 30, 1994; amended by Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; and by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501 at 1536, approved November 29, 1999

AN ACT To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

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

* * * * *

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

SEC. 301.¹ SHORT TITLE.

This title may be cited as the “United States International Broadcasting Act of 1994”.

SEC. 302.² CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers,” in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this title.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to the people of the People’s Republic of China and other countries of Asia which lack adequate sources of free information,

¹22 U.S.C. 6201 note.

²22 U.S.C. 6201.

would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

SEC. 303.³ STANDARDS AND PRINCIPLES.

(a) BROADCASTING STANDARDS.—United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience;⁴

(7) be designed so as to effectively reach a significant audience; and⁴

(8)⁴ promote respect for human rights, including freedom of religion.

(b) BROADCASTING PRINCIPLES.—United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies, including editorials, broadcast by the Voice of America, which present the views of the United States Government⁵ of the United States Government and responsible discussion and opinion on those policies;

(4)⁶ the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad;

(5)⁶ programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

(6)⁶ information about developments in each significant region of the world;

³22 U.S.C. 6202.

⁴Sec. 502 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) struck out “and” at the end of para. (6); replaced a period with “; and” at the end of para. (7); and added a new para. (8).

⁵Sec. 1323(d)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) inserted “, including editorials, broadcast by the Voice of America, which present the views of the United States Government” after “policies”.

⁶Sec. 1323(d)(2) and (3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) redesignated paras. (4) through (9) as paras. (5) through (10) and added a new para. (4).

(7)⁶ a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(8)⁶ reliable research capacity to meet the criteria under this section;

(9)⁶ adequate transmitter and relay capacity to support the activities described in this section; and

(10)⁶ training and technical support for independent indigenous media through government agencies or private United States entities.

(c)⁷ VOICE OF AMERICA BROADCASTS.—The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.

SEC. 304.⁸ ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.

(a)⁹ CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.—

(1) IN GENERAL.—The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5, United States Code.

(2) RETENTION OF EXISTING BOARD MEMBERS.—The members of the Broadcasting Board of Governors appointed by the President pursuant to subsection (b)(1)(A) before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998 and holding office as of that date may serve the remainder of their terms of office without reappointment.

(3) INSPECTOR GENERAL AUTHORITIES.—

(A) IN GENERAL.—The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting Board of Governors and the International Broadcasting Bureau as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

(B) RESPECT FOR JOURNALISTIC INTEGRITY OF BROADCASTERS.—The Inspector General shall respect the journal-

⁷ Sec. 1(p) of Public Law 103-415 (108 Stat. 4301) added subsec. (c).

⁸ 22 U.S.C. 6203.

⁹ Sec. 1322 of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) amended and restated subsec. (a). It formerly read as follows:

“(a) ESTABLISHMENT.—There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this title referred to as the ‘Board’).”.

istic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.

(b) COMPOSITION OF THE BOARD.—

(1) The Board shall consist of 9 members, as follows:

(A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Secretary of State¹⁰ who shall also be a voting member.

(2) The President shall appoint¹¹ one member (other than the Secretary of State)¹⁰ as Chairman of the Board, subject to the advice and consent of the Senate.¹¹

(3) Exclusive of the Secretary of State,¹⁰ not more than 4 of the members of the Board appointed by the President shall be of the same political party.

(c) TERM OF OFFICE.—The term of office of each member of the Board shall be three years, except that the Secretary of State¹⁰ shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Secretary of State,¹⁰ the Acting Secretary of State¹² shall serve as a member of the Board until a Director is appointed.

(d) SELECTION OF BOARD.—Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

(e) COMPENSATION.—Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed inter-

¹⁰Sec. 1323(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Secretary of State".

¹¹Sec. 502 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "designate" and inserted in lieu thereof "appoint", and inserted ", subject to the advice and consent of the Senate" at the end of the sentence.

¹²Sec. 1323(c) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "acting Director of the agency" and inserted in lieu thereof "Acting Secretary of State".

mittently. The Secretary of State¹⁰ shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

(f) DECISIONS.—Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

(g)¹³ Immunity from Civil Liability.—Notwithstanding any other provision of law, any and all limitations on liability that apply to the members of the Broadcasting Board of Governors also shall apply to such members when acting in their capacities as members of the boards of directors of RFE/RL, Incorporated and Radio Free Asia.

SEC. 305.¹⁴ AUTHORITIES OF THE BOARD.

(a) AUTHORITIES.—The Board shall have the following authorities:

(1) To¹⁵ supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b).¹⁶

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

(4) To review, evaluate, and determine, at least annually,, after consultation with the Secretary of State,¹⁷ the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with sections 308 and 309.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

¹³Sec. 504 of Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added subsec. (g).

¹⁴22 U.S.C. 6204.

¹⁵Sec. 1323(e)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "direct and" at this point.

¹⁶Sec. 1323(e)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "and the Television Broadcasting to Cuba Act" and inserted in lieu thereof "the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b)".

¹⁷Sec. 1323(e)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) inserted "after consultation with the Secretary of State," after "annually," (resulting in a double comma after "annually").

(9) To submit to the President and the Congress,¹⁸ an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act. Each annual report shall place special emphasis on the assessment described in paragraph (2).¹⁹

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1998 and 1999²⁰ may not exceed the amount made available to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997),²¹

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay of²² Radio Free Asia.

(15)²³ (A) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code.

(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

¹⁸ Sec. 1323(e)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "through the Director of the United States Information Agency."

¹⁹ Sec. 1323(e)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) added the sentence beginning "Each annual report".

²⁰ Sec. 1323(e)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "1994 and 1995" and inserted in lieu thereof "1998 and 1999".

²¹ Sec. 1323(e)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "to the Board for International Broadcasting for such purposes for fiscal year 1993" and inserted in lieu thereof "to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997".

²² Sec. 1(s)(1) of Public Law 103-415 (108 Stat. 4302) struck out "to" and inserted in lieu thereof "of".

²³ Sec. 1323(e)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) added paras. (15) through (18).

(16)²³ To procure, pursuant to section 1535 of title 31, United States Code (commonly known as the “Economy Act”), such goods and services from other departments or agencies for the Board and the International Broadcasting Bureau as the Board determines are appropriate.

(17)²³ To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Board considers necessary in carrying out the provisions and purposes of this title.

(18)²³ To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this title.

(b)²⁴ DELEGATION OF AUTHORITY.—The Board may delegate to the Director of the International Broadcasting Bureau, or any other officer or employee of the United States, to the extent the Board determines to be appropriate, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (3), (4), (5), (6), (9), or (11) of subsection (a).

(c)^{24, 25} BROADCASTING BUDGETS.—

The Director of the Bureau and the grantees identified in sections 308 and 309 shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the Office of Management and Budget.

(d)²⁶ PROFESSIONAL INDEPENDENCE OF BROADCASTERS.—The Secretary of State and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and the grantees of the Board.

(e)²⁴ TECHNICAL AMENDMENT.—

(1) Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking “and the Associate Direc-

²⁴ Sec. 1323(f) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-779) redesignated subsecs. (b), (c), and (d) as subsecs. (c), (d), and (e), and added a new subsec. (b).

²⁵ Sec. 1323(g) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out para. designation (1) before “The Director” and struck out “the Director of the United States Information Agency for the consideration of the Director as a part of the Agency’s budget submission to” after “Television Broadcasting to Cuba Act to”. Sec. 1323(h) of that Act repealed para. (2) of this subsection, which had required that the USIA Director include in the Agency’s submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

²⁶ Sec. 1323(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) amended and restated subsec. (d), as redesignated. It previously read as follows:

“(d) IMPLEMENTATION.—The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees.”.

tor for Broadcasting of the United States Information Agency” and inserting “of the Voice of America”.

(2) Section 5(b) of the Radio Broadcasting to Cuba Act (22 U.S.C.1465c(b)) is amended by striking “Director and Associate Director for Broadcasting of the United States Information Agency” and inserting “Broadcasting Board of Governors”.

SEC. 306.²⁷ ROLE OF THE SECRETARY OF STATE.

(a) FOREIGN POLICY GUIDANCE.—To assist the Board in carrying out its functions, the Secretary of State shall provide information and guidance on foreign policy issues to the Board, as the Secretary may deem appropriate.

(b)²⁷ CERTAIN WORLDNET PROGRAMMING.—The Secretary of State is authorized to use Worldnet broadcasts for the purposes of continuing interactive dialogues with foreign media and other similar overseas public diplomacy programs sponsored by the Department of State. The Chairman of the Broadcasting Board of Governors shall provide access to Worldnet for this purpose on a non-reimbursable basis.

SEC. 307.²⁸ INTERNATIONAL BROADCASTING BUREAU.

(a) ESTABLISHMENT.—There is hereby established an International Broadcasting Bureau under the Board²⁹ (hereafter in this title referred to as the “Bureau”), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 308 and 309.

(b)³⁰ SELECTION OF THE DIRECTOR OF THE BUREAU.—The Director of the Bureau shall be appointed by the President, by and with the advice and consent of the Senate.³¹ The Director of the Bureau shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(c)³² RESPONSIBILITIES OF THE DIRECTOR.—The Director shall organize and chair a coordinating committee to examine and make recommendations to the Board on long-term strategies for the future of international broadcasting, including the use of new technologies, further consolidation of broadcast services, and consolidation of currently existing public affairs and legislative relations functions in the various international broadcasting entities. The coordinating committee shall include representatives of Radio Free

²⁷ 22 U.S.C. 6205. Sec. 1323(j) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out ‘FOREIGN POLICY GUIDANCE’ in the section catchline, inserting instead ‘ROLE OF THE SECRETARY OF STATE’; inserted ‘(a) FOREIGN POLICY GUIDANCE’; struck out ‘State, acting through the Director of the United States Information Agency,’ and inserted in lieu thereof ‘State’; inserted at the end of newly designated subsec. (a) ‘, as the Secretary may deem appropriate’; and added a new subsec. (b).

²⁸ 22 U.S.C. 6206.

²⁹ Sec. 1323(k)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out ‘within the United States Information Agency’ and inserted in lieu thereof ‘under the Board’.

³⁰ Sec. 1323(k)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out para. designation (1) and struck out text of para. (2) in subsec. (b). Para. (2) had amended 5 U.S.C. 5315 to include ‘Director of the International Broadcasting Bureau, the United States Information Agency.’

³¹ Sec. 1323(k)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out ‘Director of the United States Information Agency and with the concurrence of a majority of the Board’ and inserted in lieu thereof ‘President, by and with the advice and consent of the Senate’.

³² Sec. 1323(k)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) added subsec. (c).

Asia, RFE/RL, Incorporated, the Broadcasting Board of Governors, and, as appropriate, the Office of Cuba Broadcasting, the Voice of America, and Worldnet.

SEC. 308.³³ LIMITS ON GRANTS FOR RADIO FREE EUROPE AND RADIO LIBERTY.

(a) **BOARD OF RFE/RL, INCORPORATED.**—The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this title.

(b) **LOCATION OF PRINCIPAL PLACE OF BUSINESS.**—

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(c) **LIMITATION ON GRANT AMOUNTS.**—The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed \$75,000,000 for any fiscal year after fiscal year 1995.

(d) **ALTERNATIVE GRANTEE.**—If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 309 in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) **NOT A FEDERAL AGENCY OR INSTRUMENTALITY.**—Nothing in this title may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) **AUTHORITY.**—Grants authorized under section 305 for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before the date of enactment of this Act with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973, as in effect on such date.

³³ 22 U.S.C. 6207.

(g) GRANT AGREEMENT.—Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting Bureau be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) PROHIBITED USES OF GRANT FUNDS.—No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) REPORT ON MANAGEMENT PRACTICES.—(1) Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the Department of State and the Foreign Serv-

ice³⁴ shall submit to the Board³⁵ and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the Department of State and the Foreign Service³⁴ shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) AUDIT AUTHORITY.—

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act, the Inspector General of the Department of State and the Foreign Service³⁴ is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k)³⁶ * * * [Repealed—1998]

³⁴Sec. 1314(d)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) struck out "Inspector General of the United States Information Agency" and inserted in lieu thereof "Inspector General of the Department of State and the Foreign Service". Subsec. (e) of that section, furthermore, provided the following:

"(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency)."

³⁵Sec. 1314(d)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) struck out "the Director of the United States Information Agency."

³⁶Sec. 1323(l)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) repealed subsecs. (k) and (l). The subsections had provided as follows:

"(k) PLAN FOR RELOCATION.—None of the funds authorized to be appropriated for the fiscal years 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

"(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

"(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

"(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that a significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appro-

(l)³⁶ * * * [Repealed—1998]

SEC. 309.³⁷ RADIO FREE ASIA.

(a) **AUTHORITY.**—

(1) Grants authorized under section 305 shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as “Radio Free Asia”.

(b) **FUNCTIONS.**—Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c)³⁸ **GRANT AGREEMENT.**—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1)³⁹ The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior ad-

appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

“(1) **REPORTS ON PERSONNEL CLASSIFICATION.**—Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities.”

The certification required in subsec. (k) to move RFE/RL from Munich, Germany to Prague, Czech Republic, had been made by the President on July 12, 1994 (Presidential Determination No. 94-32; 59 F.R. 37649).

³⁷ 22 U.S.C. 6208.

³⁸ Sec. 501 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out subsec. (c) and redesignated subsecs. (d) through (i) as subsecs. (c) through (h), respectively. Former subsec. (c) read as follows:

“(c) **SUBMISSION OF DETAILED PLAN FOR RADIO FREE ASIA.**—

“(1) No grant may be awarded to carry out this section unless the Board, through the Director of the United States Information Agency, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

“(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4);

“(B) a description of the numbers and qualifications of employees it proposes to hire; and

“(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

“(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

“(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and subsection (d)(5).

“(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit, through the Director of the United States Information Agency, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.”

³⁹ Sec. 501(3)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of

ministrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 2009.⁴⁰

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed \$30,000,000 in each of the fiscal years 2000 and 2001.⁴¹

(5)⁴² Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(d)³⁸ LIMITATIONS ON ADMINISTRATIVE AND MANAGERIAL COSTS.—It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(e)³⁸ ASSESSMENT OF THE EFFECTIVENESS OF RADIO FREE ASIA.—Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this title,

Public Law 106-113; 113 Stat. 1536), struck subpara. designation "(A)" and struck out subpara. (B) from para. (1). Subpara. (B) previously stated:

"(B) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C."

⁴⁰ Sec. 501(3)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "September 30, 1999" and inserted in lieu thereof "September 30, 2009".

⁴¹ Sec. 501(1)(C) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out "\$22,000,000 in any fiscal year" and inserted in lieu thereof "\$30,000,000 in each of the fiscal years 2000 and 2001".

⁴² Sec. 501(3)(D) and (E) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out para. (5) and redesignated para. (6) as para. (5). Former para. (5) provided:

"(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed \$8,000,000."

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(f)⁴³ SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 2009.

(g)³⁸ NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(h)³⁸ NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

SEC. 310.⁴⁴ * * * [Repealed—1998]

SEC. 311.⁴⁵ PRESERVATION OF AMERICAN JOBS.

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

SEC. 312.⁴⁶ THE CONTINUING MISSION OF RADIO FREE EUROPE AND RADIO LIBERTY BROADCASTS.

It is the sense of Congress that Radio Free Europe and Radio Liberty should continue to broadcast to the peoples of Central Europe, Eurasia, and the Persian Gulf until such time as—

⁴³Sec. 501(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), redesignated subsec. (g) as subsec. (f). Sec. 501(4) of that Act amended and restated redesignated subsec. (f), which previously provided as follows:

“(f) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President’s fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.”.

⁴⁴Formerly at 22 U.S.C. 6209. Repealed by sec. 1323(1)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780). Sec. 310 had authorized the President “to direct the transfer of all functions and authorities from the Board for International Broadcasting to the United States Information Agency, the Board, or the Bureau”, and otherwise provided for such a transition.

⁴⁵22 U.S.C. 6210.

⁴⁶22 U.S.C. 6211. Amended and restated by sec. 503 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536). Previously read as follows:

“sec. 312. privatization of radio free europe and radio liberty.

“(a) DECLARATION OF POLICY.—It is the sense of the Congress that, in furtherance of the objectives of section 302 of this Act, the funding of Radio Free Europe and Radio Liberty should be

(1) a particular nation has clearly demonstrated the successful establishment and consolidation of democratic rule; and

(2) its domestic media which provide balanced, accurate, and comprehensive news and information, is firmly established and widely accessible to the national audience, thus making redundant broadcasts by Radio Free Europe or Radio Liberty.

At such time as a particular nation meets both of these conditions, RFE/RL should phase out broadcasting to that nation.

SEC. 313.⁴⁷ REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.

(a) **LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.**—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to the direction and supervision of the Board shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) **SUBSEQUENT AUTHORIZATION.**—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) **APPLICATION.**—The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered under or pursuant to this title.

SEC. 314.⁴⁸ DEFINITIONS.

For the purposes of this title—

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Af-

assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

“(b) **PRESIDENTIAL SUBMISSION.**—The President shall submit with his annual budget submission as provided for in section 307 an analysis and recommendations for achieving the objectives of subsection (a).

“(c) **REPORTS ON TRANSFER OF RFE/RL RESEARCH INSTITUTE.**—Not later than 120 days after the date of enactment of this Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute pursuant to subsection (a) and shall provide periodic progress reports on such efforts until such transfer has been achieved.”

⁴⁷ 22 U.S.C. 6212. The Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1771), in part, provided under “International Broadcasting Operations”: “* * * *Provided further, Provided further,* That on the date upon which the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed, as provided for by section 310(e) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103-236; 108 Stat. 442), funds made available for expenses of the Board for International Broadcasting shall be made available until expended only for expenses necessary to enable the Broadcasting Board of Governors to carry out the authorities provided in section 305(a) of Public Law 103-236, including the appointment of staff personnel as authorized by section 305(a)(11) of Public Law 103-236: * * *”.

⁴⁸ 22 U.S.C. 6213.

fairs⁴⁹ and the Committee on Appropriations of the House of Representatives;

(2) the term “RFE/RL, Incorporated” includes—

(A) the corporation having the corporate title described in section 307(b)(3); and

(B) any alternative grantee described in section 307(e); and

(3) the term “salary or other compensation” includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

SEC. 315. TECHNICAL AND CONFORMING AMENDMENTS.

(a) VOICE OF AMERICA BROADCASTS.—Section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463) is repealed.

(b) ISRAEL RELAY STATION.—Section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is repealed.

(c) BOARD FOR INTERNATIONAL BROADCASTING ACT.—Section 4(a)(1) of the Board for International Broadcasting Act of 1973 is amended to read as follows:

“(1) to make grants to RFE/RL, Incorporated and, until September 30, 1995, to make grants to entities established in the privatization of certain functions of RFE/RL, Incorporated in order to carry out the purposes set forth in section 2 of this Act;”

(d)⁵⁰ RELOCATION COSTS.—Notwithstanding any other provision of law, funds derived from the sale of real property assets of RFE/RL in Munich, Germany, may be retained, obligated, and expended to meet one-time costs associated with the consolidation of United States Government broadcasting activities in accordance with this title, including the costs of relocating RFE/RL offices and operations.

⁴⁹Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁵⁰22 U.S.C. 6214. Added by sec. 1(l) of Public Law 103-415 (108 Stat. 4303).

b. Voice of America—Availability of Certain Materials

Partial text of Public Law 106-309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000

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TITLE IV—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 406. AVAILABILITY OF VOA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

Section 1(b) of Public Law 104-269 (110 Stat. 3300) is amended by striking “5 years” and inserting “10 years”.

SEC. 407. AVAILABILITY OF CERTAIN MATERIALS OF THE VOICE OF AMERICA.

(a) **AUTHORITY.—**

(1) **IN GENERAL.—**Subject to the provisions of this section, the Broadcasting Board of Governors (in this section referred to as the “Board”) is authorized to make available to the Institute for Media Development (in this section referred to as the “Institute”), at the request of the Institute, previously broadcast audio and video materials produced by the Africa Division of the Voice of America.

(2) **DEPOSIT OF MATERIALS.—**Upon the request of the Institute and the approval of the Board, materials made available under paragraph (1) may be deposited with the University of California, Los Angeles, or such other appropriate institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) that is approved by the Board for such purpose.

(3) **SUPERSEDES EXISTING LAW.—**Materials made available under paragraph (1) may be provided notwithstanding section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) and section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a).

(b) **LIMITATIONS.—**

(1) **AUTHORIZED PURPOSES.—**Materials made available under this section shall be used only for academic and research purposes and may not be used for public or commercial broadcast purposes.

(2) **PRIOR AGREEMENT REQUIRED.—**Before making available materials under subsection (a)(1), the Board shall enter into an agreement with the Institute providing for—

(A) reimbursement of the Board for any expenses involved in making such materials available;

(B) the establishment of guidelines by the Institute for the archiving and use of the materials to ensure that copyrighted works contained in those materials will not be used in a manner that would violate the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(C) the indemnification of the United States by the Institute in the event that any use of the materials results in violation of the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(D) the authority of the Board to terminate the agreement if the provisions of paragraph (1) are violated; and

(E) any other terms and conditions relating to the materials that the Board considers appropriate.

(c) CREDITING OF REIMBURSEMENTS TO BOARD APPROPRIATIONS ACCOUNT.—Any reimbursement of the Board under subsection (b) shall be deposited as an offsetting collection to the currently applicable appropriation account of the Board.

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall cease to have effect on the date that is 5 years after the date of the enactment of this Act.

* * * * *

**c. Bureau of Broadcasting, Board for International
Broadcasting Authorization, Fiscal Years 2000 and 2001**

**Partial text of Public Law 106-113 [Admiral James W. Nance and Meg
Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and
2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, ap-
proved November 29, 1999**

AN ACT To authorize appropriations for the Department of State for fiscal years
2000 and 2001; to provide for enhanced security at United States diplomatic facili-
ties; to provide for certain arms control, nonproliferation, and other national secu-
rity measures; to provide for reform of the United Nations; and for other purposes

* * * * *

DIVISION A—DEPARTMENT OF STATE PROVISIONS

TITLE I—AUTHORIZATION OF APPROPRIATIONS

* * * * *

**Subtitle B—United States International Broadcasting
Activities**

SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be ap-
propriated to carry out the United States International Broadcast-
ing Act of 1994, the Radio Broadcasting to Cuba Act, and the Tele-
vision Broadcasting to Cuba Act, and to carry out other authorities
in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING ACTIVITIES.—For “Inter-
national Broadcasting Activities”, \$385,900,000 for the fiscal
year 2000, and \$393,618,000 for the fiscal year 2001.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For “Broadcast-
ing Capital Improvements”, \$20,868,000 for the fiscal year
2000, and \$20,868,000 for the fiscal year 2001.

(3) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”,
\$22,743,000 for the fiscal year 2000 and \$22,743,000 for the
fiscal year 2001.

(4) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,000,000 for
the fiscal year 2000, and \$30,000,000 for the fiscal year 2001.

* * * * *

**TITLE V—UNITED STATES INTERNATIONAL
BROADCASTING ACTIVITIES**

SEC. 501. REAUTHORIZATION OF RADIO FREE ASIA. * * *¹

**SEC. 502. NOMINATION REQUIREMENTS FOR THE CHAIRMAN OF THE
BROADCASTING BOARD OF GOVERNORS. * * *²**

**SEC. 503. PRESERVATION OF RFE/RL (RADIO FREE EUROPE/RADIO
LIBERTY). * * *³**

**SEC. 504. IMMUNITY FROM CIVIL LIABILITY FOR BROADCASTING
BOARD OF GOVERNORS. * * *⁴**

* * * * *

¹Sec. 501 amended sec. 309 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6208).

²Sec. 502 amended sec. 304(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6203 (b)(2)).

³Sec. 503 amended and restated sec. 312 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6211)

⁴Sec. 504 added subsec. (g) to sec. 304 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203).

d. Bureau of Broadcasting, Board for International Broadcasting, Restructuring and Authorization, Fiscal Years 1998 and 1999

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

* * * * *

**DIVISION G—FOREIGN AFFAIRS REFORM AND
RESTRUCTURING ACT OF 1998**

SEC. 1001.¹ SHORT TITLE.

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

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TITLE XIII—UNITED STATES INFORMATION AGENCY

* * * * *

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

SEC. 1311.² ABOLITION OF UNITED STATES INFORMATION AGENCY.

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

* * * * *

SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.”.

* * * * *

¹22 U.S.C. 6501 note.
²22 U.S.C. 6531.

CHAPTER 3—INTERNATIONAL BROADCASTING

SEC. 1321.³ CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:
* * *⁴

SEC. 1323.⁵ CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.).

(b)–(1) * * *

SEC. 1324.⁵ AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT. * * *

SEC. 1325.⁵ AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT. * * *

SEC. 1326.⁶ TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, aris-

³22 U.S.C. 6541.

⁴The amended sec. 304(a) continues the Broadcasting Board of Governors within the Executive branch, retains the current Board of Governors, authorizes the State Department’s Inspector General’s authority to extend to include the Broadcasting Board of Governors, and requires the Inspector General to respect the journalistic integrity of all the broadcasters covered by title III of the U.S. International Broadcasting Act of 1994.

⁵Secs. 1323–1325 made amendments to the law referred to in the section catchline to reflect the reorganization and consolidation of foreign affairs agencies.

⁶22 U.S.C. 6542.

ing from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) **ADDITIONAL TRANSFERS.**—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) **TRANSFER OF PERSONNEL.**—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

SEC. 1327.7 SAVINGS PROVISIONS.

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

⁷ 22 U.S.C. 6543.

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) ORDERS, APPEALS, AND PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.—

(1) SUBSTITUTION OF PARTIES.—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) **LIABILITY OF THE BOARD.**—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) **REFERENCES.**—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

SEC. 1328.⁸ REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:

- (1) Efforts by RFE/RL, Incorporated, to terminate individual language services.
- (2) A detailed description of steps taken with regard to section 312(a) of that Act.
- (3) An analysis of prospects for privatization over the coming year.
- (4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

* * * * *

⁸ 22 U.S.C. 6544.

**SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION
TITLE XX—GENERAL PROVISIONS**

SEC. 2001.⁹ SHORT TITLE.

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

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**TITLE XXIV—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

* * * * *

(4) **INTERNATIONAL BROADCASTING ACTIVITIES.—**

(A) **AUTHORIZATION OF APPROPRIATIONS.—**For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) **ALLOCATION.—**Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) **RADIO CONSTRUCTION.—**For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) **RADIO FREE ASIA.—**For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999, and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) **BROADCASTING TO CUBA.—**For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

* * * * *

⁹ 22 U.S.C. 2651 note.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

* * * * *

SEC. 2416. SURROGATE BROADCASTING STUDY.

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.

(a) **RADIO FREE IRAN.**—Not more than \$2,000,000 of the funds made available under section 2401(a)(4) of this division for each of the fiscal years 1998 and 1999 for grants to RFE/RL, Incorporated, shall be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as “Radio Free Iran”.

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) **AVAILABILITY OF FUNDS.**—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

* * * * *

SEC. 2420.¹⁰ VOICE OF AMERICA BROADCASTS.

(a) **IN GENERAL.**—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

- (1) information on the products, tourism, and cultural and educational facilities of each State;
- (2) information on the potential for trade with each State; and
- (3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

(c) **STATE DEFINED.**—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

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TITLE XXVII—OTHER FOREIGN POLICY PROVISIONS

* * * * *

¹⁰ 22 U.S.C. 6202 note.

SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

(1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);

(2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and

(3) the humanitarian assistance program described in subsection (c).

* * * * *

**e. Bureau of Broadcasting, Board for International
Broadcasting Authorization, Fiscal Years 1992 and 1993**

**Partial text of Public Law 102-138 [Foreign Relations Authorization Act,
Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28,
1991**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and the Television Broadcasting to Cuba Act, and have been incorporated into those Acts at the appropriate places.

The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

* * * * *

**TITLE II—UNITED STATES INFORMATIONAL,
EDUCATIONAL, AND CULTURAL PROGRAMS**

* * * * *

PART C—BUREAU OF BROADCASTING

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Information Agency for the Bureau of Broadcasting for carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act the following amounts:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$196,942,000 for the fiscal year 1992 and \$216,815,000 for the fiscal year 1993.

(2) TELEVISION AND FILM SERVICE.—For “Television and Film Service”, \$33,185,000 for the fiscal year 1992 and \$34,476,000 for the fiscal year 1993.

(3) ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES.—For “Acquisition and Construction of Radio Facilities”, \$98,043,000 for the fiscal year 1992 and \$103,000,000 for the fiscal year 1993.

(4) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$38,988,000 for the fiscal year 1992 and \$34,525,000 for the fiscal year 1993.

SEC. 232.¹ TELEVISION BROADCASTING TO CUBA ACT. * * *

SEC. 233. YUGOSLAVIAN PROGRAMMING WITHIN THE VOICE OF AMERICA.

The Director of the United States Information Agency shall establish distinct Croatian and Serbian programs within the Yugoslavian section of the Voice of America.

SEC. 234. VOICE OF AMERICA BROADCASTS IN KURDISH.

(a) FINDINGS.—The Congress finds that—

(1) more than 20 million Kurds have no source of reliable and accurate news and information in their own language;

(2) the Kurdish people have been subject to extreme repression, including the denial of fundamental cultural and human rights, the extensive destruction of villages, and the mass killing of Kurds by the Iraqi regime; and

(3) the Voice of America provides an effective means by which the Kurdish people may be informed of events in the free world and pertaining to their own situation.

(b) BROADCASTS IN KURDISH.—As soon as practicable, but not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall establish, through the Voice of America, a service to provide Kurdish language programming to the Kurdish people. Consistent with the mission and practice of the Voice of America, these broadcasts in Kurdish shall include news and information on events that affect the Kurdish people.

(c) AMOUNT OF PROGRAMMING.—As soon as practicable but not later than one year after enactment, the Voice of America Kurdish language programming pursuant to this section shall be broadcast for not less than 1 hour each day.

(d) PLAN FOR A KURDISH LANGUAGE SERVICE.—Not later than 90 days after enactment of this Act, the Director of the United States Information Agency shall submit to the Chairman of the Senate Committee on Foreign Relations and to the Speaker of the House of Representatives a report on progress made toward implementation of this section.

(e) HIRE OF KURDISH LANGUAGE SPEAKERS.—In order to expedite the commencement of Kurdish language broadcasts, the Director of the United States Information Agency is authorized to hire, subject to the availability of appropriations, Kurdish language speakers on a contract not to exceed one year without regard to competitive and other procedures that might delay such hiring.

(f) SURROGATE HOME SERVICE.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Board for International Broadcasting shall submit to the Chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives a plan, together with a detailed budget, for the establishment of a surrogate home service under the auspices of Radio Free Europe/Radio Liberty for the Kurdish people. Such sur-

¹Sec. 232 amended sec. 247 of the Television Broadcasting to Cuba Act.

rogate home service for the Kurdish people shall broadcast not less than 2 hours a day.

SEC. 235. REPORTS ON THE FUTURE OF INTERNATIONAL BROADCASTING.

(a) **REPORT ON INTERNATIONAL BROADCASTING.**—Not later than 15 days after the date of the enactment of this Act, the President shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs² of the House of Representatives the report of the Policy Coordinating Committee on International Broadcasting.

(b) **REPORT ON UNITED STATES GOVERNMENT BROADCASTING.**—The President's Task Force on United States Government International Broadcasting shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs² of the House of Representatives a complete text of its report to the President on United States Government Broadcasting.

PART D—BOARD FOR INTERNATIONAL BROADCASTING

SEC. 241.³ AUTHORIZATION OF APPROPRIATIONS. * * *

SEC. 242.³ BOARD FOR INTERNATIONAL BROADCASTING ACT. * * *

SEC. 243. BROADCASTING TO CHINA.

(a) **COMMISSION ON BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA.**—

(1) **ESTABLISHMENT.**—There is established a Commission on Broadcasting to the People's Republic of China (hereafter in this title referred to as the "Commission") which shall be an independent commission in the executive branch.

(2) **MEMBERSHIP.**—The Commission shall be composed of 11 members from among citizens of the United States who shall, within 45 days of the enactment of this Act, be appointed in the following manner:

(A) The President shall appoint 3 members of the Commission.

(B) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(C) The Majority Leader of the Senate shall appoint 2 members of the Commission.

(D) The Minority Leader of the House of Representatives shall appoint 2 members of the Commission.

(E) The Minority Leader of the Senate shall appoint 2 members of the Commission.

(3) **CHAIRPERSON.**—The President, in consultation with the congressional leaders referred to in subsection (b), shall designate 1 of the members to be the Chairperson.

(4) **QUORUM.**—A quorum, consisting of at least half of the members who have been appointed, shall be required for the transaction of business.

²Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

³Secs. 241 and 242 amended sec. 8 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877).

(5) VACANCIES.—Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

(b) FUNCTIONS.—

(1) PURPOSE.—The Commission shall examine the feasibility, effect, and implications for United States foreign policy of instituting a radio broadcasting service to the People's Republic of China, as well as to other communist countries in Asia, to promote the dissemination of information and ideas, with particular emphasis on developments within each of those nations.

(2) SPECIFIC ISSUES TO BE EXAMINED.—The Commission shall examine all issues related to instituting such a service, including—

(A) program content;

(B) staffing and legal structure;

(C) transmitter and headquarters requirements;

(D) costs;

(E) expected effect on developments within China and on Sino-American relations; and

(F) expected effect on developments within other communist countries in Asia and on their relations with the United States.

(3) METHODOLOGY.—The Commission shall conduct such studies, inquire, hearings, and meetings as it considers necessary.

(4) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President of the Senate a report describing its activities in carrying out the purpose of paragraph (1) and including recommendations regarding the issues of paragraph (2).

(c) ADMINISTRATION.—

(1) COMPENSATION AND TRAVEL EXPENSES.—

(A) GENERAL PROVISION.—

(i) Except as provided in subparagraph (B), members shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(ii) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) LIMITATION.—Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(2) SUPPORT FROM EXECUTIVE AND LEGISLATIVE BRANCHES.—

(A) EXECUTIVE AGENCIES.—Executive agencies shall, to the extent the President considers appropriate and as per-

mitted by law, provide the Commission with appropriate information, advice, and assistance.

(B) CONGRESSIONAL COMMITTEES.—As may be considered appropriate by the chairpersons, committees of Congress may provide appropriate information, advice, and assistance to the Commission.

(3) EXPENSES.—Expenses of the Commission shall be paid from funds available to the Department of State.

(d) TERMINATION.—The Commission shall terminate upon submission of the report under subsection (b).

SEC. 244. POLICY ON RADIO FREE EUROPE.

It is the sense of the Congress that Radio Free Europe should continue to broadcast to nations throughout Eastern Europe and should maintain its broadcasts to any nation until—

(1) new sources of timely and accurate domestic and international information have supplanted and rendered redundant the broadcasts of Radio Free Europe to that nation; and

(2) that nation has clearly demonstrated the successful establishment and consolidation of democratic rule.

* * * * *

**f. Board for International Broadcasting Authorization,
Fiscal Years 1990 and 1991**

Partial text of Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15 at 63, approved February 16, 1990; amended by Public Law 101-302 [Dire Emergency Supplemental Appropriations; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and the State Department Basic Authorities Act of 1956, and have been incorporated into those Acts at the appropriate places.

The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

* * * * *

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

(a)¹ * * *

(b) RADIO TRANSMITTER CONSTRUCTION AND MODERNIZATION.—There are authorized to be appropriated to the Board for International Broadcasting for radio transmitter construction and modernization \$15,845,000 for the fiscal year 1990 and \$12,000,000 for the fiscal year 1991. Amounts appropriated under this subsection are authorized to remain available until expended.

(c)² * * * [Repealed—1994]

¹Sec. 301(a) amended sec. 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to authorize \$180,330,000 for fiscal year 1990 and \$187,543,000 for fiscal year 1991 for the Board for International Broadcasting.

²Sec. 315(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 445), repealed sec. (c), which had authorized appropriations for construction of a broadcasting relay station in Israel.

Chapter II of the Supplemental Appropriations Act of 1993 (Public Law 103-50; 107 Stat. 247) rescinded \$180,000,000 from obligated and unobligated balances available for such a project. Title III, Chapter 2 of Public Law 103-211 (108 Stat. 26) rescinded \$1,700,000.

**g. Board for International Broadcasting Authorization,
Fiscal Years 1988 and 1989**

**Partial text of Public Law 100-204 [Foreign Relations Authorization Act,
Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December
22, 1987**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.

The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

**TITLE V—THE BOARD FOR INTERNATIONAL
BROADCASTING**

SEC. 501. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a)¹ * * *

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, \$12,000,000 for the fiscal year 1988 and \$12,000,000 for the fiscal year 1989 shall be available only for radio transmitter construction and modernization.

* * * * *

SEC. 503.² CERTIFICATION OF CERTAIN CREDITABLE SERVICE. * * *

* * * * *

¹Sec. 501(a) amended sec. 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to authorize \$186,000,000 for fiscal year 1988 and \$207,424,000 for fiscal year 1989 for the Board for International Broadcasting.

²Sec. 503 transferred authority for making certification to OPM regarding service creditable toward annuity to the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe. Prior to this amendment, the Director of the Board for International Broadcasting was responsible for such certification.

**h. Board for International Broadcasting Authorization,
Fiscal Years 1986 and 1987**

Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 434, approved August 16, 1985

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places. The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

* * * * *

SEC. 304. MANAGEMENT OF RFE/RL, INCORPORATED.

(a) FINDINGS.—The Congress finds that—

(1) RFE/RL, Incorporated, is essential to the continued and effective furtherance of the open flow of information and ideas throughout Eastern Europe and the Soviet Union;

(2) effective communication of information and ideas can only be accomplished if the long-term credibility of RFE/RL, Incorporated, operating in accordance with the highest standards of professionalism, is maintained;

(3) the performance of RFE/RL, Incorporated, is dependent on proper management, an objective approach to news, quality programming, and effective oversight;

(4) the Board for International Broadcasting, in addition to making grants, is responsible for overseeing broadcast quality and effectiveness and for overseeing effective utilization of Federal funds;

(5) RFE/RL, Incorporated, is responsible for its own management and for daily broadcasts into Eastern Europe and the Soviet Union;

(6) the Board for International Broadcasting and RFE/RL, Incorporated, must remain very distinct and different institutions if they adhere to the Joint Explanatory Statement of the Committee on Conference relating to the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983;

(7) the President of RFE/RL, Incorporated, who is responsible for the proper management and supervision of the daily operations of the radios, should devote the necessary resources and personnel to strengthen both the oversight and the quality of programming;

(8) the Board for International Broadcasting, in an effort to preserve or enhance its ability to properly oversee the operations of RFE/RL, Incorporated, must avoid even the appearance of involvement in daily operational decisions and management of RFE/RL, Incorporated; and

(9) the absence of satisfactory pre-broadcast review and the lack of sufficient records of actions taken to explain or remedy program problems identified through post-broadcast review, may endanger the long-term credibility of RFE/RL, Incorporated.

(b) ACTIONS TO BE TAKEN BY RFE/RL.—It is the sense of the Congress that RFE/RL, Incorporated, should—

(1) strengthen existing broadcast control procedures and post-broadcast program analysis; and

(2) improve its personnel management system to include such things as better documentation of internal decision-making and communication, personnel review, and job description.

(c) ACTIONS TO BE TAKEN BY BIB.—It is the sense of the Congress that the Board for International Broadcasting should—

(1) periodically review and update the Program Policy Guidelines of RFE/RL, Incorporated, with the goal of maintaining their clarity and responsiveness; and

(2) ensure that the distinctions between the Board for International Broadcasting and RFE/RL, Incorporated, remain clear and that these two entities continue to operate within the framework established by law.

* * * * *

SEC. 305. ROLE OF THE SECRETARY OF STATE

(a) * * *

(b)¹ LIAISON WITH RFE/RL, INCORPORATED; REPRESENTATION AT BOARD MEETINGS.—The Secretary of State shall—

(1) establish an office within the United States Consulate in Munich, Federal Republic of Germany, which shall be responsible for the daily liaison operations of the Department of State with RFE/RL, Incorporated; and

(2) be represented by an observer at each meeting of the Board for International Broadcasting and of the Board of Directors of RFE/RL, Incorporated.

¹ 22 USC 2875 note.

SEC. 306. TASK FORCE WITH RESPECT TO BROADCASTS TO SOVIET JEWRY.

(a) **ESTABLISH TASK FORCE.**—There shall be established by the Board for International Broadcasting a task force to conduct a study of the advisability and feasibility of increasing broadcasts to the Jewish population within the Soviet Union.

(b) **STUDY.**—The Task Force shall—

(1) investigate the needs of Jewish audiences in the Soviet Union;

(2) study the practicality and desirability of establishing a special program, in accordance with the Program Policy Guidelines of RFE/RL, Inc., of Russian language broadcasting to the Jewish population of the Soviet Union;

(3) study the advisability of incorporating such a special program in a special unit of its Radio Liberty division entitled the “Radio Maccabee Program of Radio Liberty”;

(4) make recommendations with respect to the desirable content of broadcast programming; and

(5) identify the needs and concerns of the activist as well as the refusenik population in the Soviet Union.

(c) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Board for International Broadcasting shall submit a report to the Congress. Such report shall include the following:

(1) Whether expansion of original programming scheduled (“Jewish Cultural and Social Life”) or planned (“Judaism”) is fulfilling the needs of the audience, and whether expanded Soviet-Jewish programming should include broadcasts on Jewish history, culture, religion, or other matters of general cultural, intellectual, political, and religious interest to the Soviet Jewish population, as well as Hebrew education courses.

(2) The extent to which such programming is broadcast in Russian, Hebrew, and Yiddish.

(3) Recommendations for implementing expanded programming within the structure of RFE/RL, Inc., including specific personnel required and providing for a Soviet Jewry administrative unit within Radio Liberty.

(4) The findings of, and the recommendations from, the study required under subsection (b).

(d) **MACCABEE PROGRAMMING.**—RFE/RL, Incorporated, shall strengthen existing programming dealing with issues of concern to Jewish audiences in the Soviet Union, to be known as Maccabee programming.

(e) **EXISTING PERSONNEL TO CONDUCT STUDY AND MAKE REPORT.**—The study and the report required by this section shall be carried out by existing personnel of RFE, Inc., or the Board of International Broadcasting.

**i. Board for International Broadcasting Authorization Act,
Fiscal Years 1984 and 1985**

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1036, approved November 22, 1983; amended by Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places. The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

* * * * *

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

SEC. 301. This title may be cited as the “Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985”.

* * * * *

SALARY OF THE RFE/RL PRESIDENT

SEC. 305. (a)¹ * * *

(b) The amendment made by this section applies with respect to funds used for the salary of any President of RFE/RL, Incorporated, who is appointed after the date of enactment of this Act.

**POLICY ON BROADCASTS OF RFE/RL AND THE VOICE OF AMERICA
CONCERNING SOVIET RELIGIOUS PERSECUTION**

SEC. 306. It is the sense of the Congress that RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty) and the Voice of America (VOA) are to be commended for

¹Sec. 305(a) added a new sec. 13 to the Board for International Broadcasting Act of 1973 regarding the salary of the RFE/RL President.

their news and editorial coverage of the increasing religious persecution in the Soviet Union, including the declining levels of Jewish emigration, and are encouraged to intensify their efforts in this regard.

SEC. 307.² * * * [Repealed—1993]

POLICY ON THE JAMMING BY THE SOVIET UNION OF BROADCASTS OF
THE VOICE OF AMERICA AND RFE/RL

SEC. 308.³ It is the sense of the Congress that the President should urge the government of any country engaging in such activities to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated.

* * * * *

²Sec. 304 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) repealed sec. 307, relating to establishment of a Baltic Division under RFE/RL, Incorporated.

³Sec. 304(b) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) substantially amended and restated sec. 308. It formerly read as follows:

“POLICY ON THE JAMMING BY THE SOVIET UNION OF BROADCASTS OF THE VOICE OF AMERICA AND
RFE/RL

“SEC. 308. (a) The Congress finds that—

“(1) the permanent unrestrained flow of accurate information would greatly facilitate mutual understanding and world peace;

“(2) the Soviet Union and its allies are at present electronically jamming the broadcasts of the Voice of America and RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty); and

“(3) electronic jamming of international broadcasts violates at least four international agreements: Article 35(1) of the International Telecommunications Union Convention, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe (commonly known as the Helsinki Accords).

“(b) it is the sense of the Congress that the President should urge the Government of the Soviet Union to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated.”

**j. Board for International Broadcasting Authorization Act,
Fiscal Years 1982 and 1983**

**Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273, at 295, approved
August 24, 1982**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places. The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

SEC. 401. This title may be cited as the “Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983”.

* * * * *

RADIO BROADCASTING TO CUBA

SEC. 404. Any program of the United States Government involving radio broadcast directed principally to Cuba, for which funds are authorized to be appropriated by this Act or any other Act, shall be designated as “Radio Marti”.

* * * * *

k. International Broadcasting Operations Appropriations
(1) International Broadcasting Operations Appropriations,
2001

**Partial text of Public Law 106-553 [Federal Funding, 2001; H.R. 4942], 114
Stat. 2762, approved December 21, 2000**

* * * * *

**TITLE IV—DEPARTMENT OF STATE AND RELATED
AGENCY¹**

DEPARTMENT OF STATE

* * * * *

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, \$398,971,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For necessary expenses to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.

¹The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 [H.R. 5548, as introduced on October 25, 2000], was enacted by reference in sec. 1(a)(2) of Public Law 106-553 (114 Stat. 2762). Therein, the Department of State and Related Agency Appropriations Act, 2001, may be found at title IV (beginning at 114 Stat. 2762A-90).

BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$20,358,000, to remain available until expended, as authorized.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this Act may be used by the Department of State or the Broadcasting Board of Governors to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

* * * * *

SEC. 408. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State, and for the American Section of the International Joint Commission in Public Law 106-246, may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

This title may be cited as the “Department of State and Related Agency Appropriations Act, 2001”.

(2) International Broadcasting Operations, Miscellaneous Appropriations, 2001

Partial text of Public Law 106-554 [Consolidated Appropriations; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

* * * * *

APPENDIX D—H.R. 5666¹

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

DIVISION A

* * * * *

CHAPTER 2

* * * * *

DEPARTMENT OF STATE AND RELATED AGENCY

GENERAL PROVISIONS

* * * * *

SEC. 211. In addition to amounts appropriated under the heading “International Broadcasting Operations, Broadcasting Board of Governors” in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$10,000,000 to remain available until expended, for increased broadcasting to Russia and surrounding areas, and to China, by Radio Free Europe/Radio Liberty, Radio Free Asia, and the Voice of America: *Provided*, That any amount of such funds may be transferred to the “Broadcasting Capital Improvements” account to carry out such purposes.

* * * * *

¹Sec. 1(a)(4) of Public Law 106-554 (114 Stat. 2763) enacted H.R. 5666, as introduced on December 15, 2000 (“except that the text of H.R. 5666, as so enacted, shall not include section 123 (relating to the enactment of H.R. 4904)”). H.R. 5666, as enacted, is stated beginning at 114 Stat. 2763A-120.

18. Radio Free Asia Act of 1998

Partial text of Public Law 105-261 [National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

TITLE XXXIX—RADIO FREE ASIA

SEC. 3901. SHORT TITLE.

This title may be cited as the “Radio Free Asia Act of 1998”.

SEC. 3902. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Radio Free Asia” \$22,000,000 for fiscal year 1999.

(2) SENSE OF CONGRESS.—It is the sense of Congress that a significant amount of the funds under paragraph (1) should be directed toward broadcasting to China and Tibet in the appropriate languages and dialects.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.—In addition to such sums as are otherwise authorized to be appropriated to the United States Information Agency for “International Broadcasting Activities” for fiscal year 1999, there are authorized to be appropriated for “International Broadcasting Activities” \$3,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—In addition to such sums as are otherwise authorized to be appropriated for “Radio Construction” for fiscal year 1999, there are authorized to be appropriated for “Radio Construction” \$2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

SEC. 3903. REPORTING REQUIREMENT.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an

assessment of the board's efforts to increase broadcasting by Radio Free Asia and Voice of America to China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) DEFINITION.—As used in this section, the term “appropriate congressional committees” means—

- (1) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and
- (2) the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

19. Broadcasting to Cuba ¹

a. Television Broadcasting to Cuba Act

Partial text of Public Law 101-246 [H.R. 3793], 104 Stat. 15 at 58, approved February 16, 1990; amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114; 110 Stat. 798 and 809), as amended, provides the following:

“SEC. 107 [22 U.S.C. 6037]. TELEVISION BROADCASTING TO CUBA.

“(a) CONVERSION TO UHF.—The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

“(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

“(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.”.

* * * * *

“SEC. 203 [22 U.S.C. 6063]. COORDINATION OF ASSISTANCE PROGRAM: IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING. * * *

“(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—* * *

“(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).”.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

* * * * *

PART D—TELEVISION BROADCASTING TO CUBA

SEC. 241.² SHORT TITLE

This part may be cited as the “Television Broadcasting to Cuba Act”.

SEC. 242.³ FINDINGS AND PURPOSES.

The Congress finds and declares that—

(1) it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) consonant with this policy, television broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba and, in particular, information about Cuba;

(3) television broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest;

(4) facilities broadcasting television programming to Cuba must be operated in a manner consistent with applicable regulations of the Federal Communications Commission, and must not affect the quality of domestic broadcast transmission or reception; and

(5) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions, but that there is a need for television broadcasts to Cuba which provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

SEC. 243.⁴ TELEVISION BROADCASTING TO CUBA.

(a) TELEVISION BROADCASTING TO CUBA.—In order to carry out the purposes set forth in section 242 and notwithstanding the limitation of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) with respect to the dissemination in the United States of information prepared for dissemination abroad to the extent such dissemination is inadvertent,

¹See also Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983.

²22 U.S.C. 1465aa note.

³22 U.S.C. 1465aa.

⁴22 U.S.C. 1465bb.

the Broadcasting Board of Governors⁵ (hereafter in this part referred to as the “Agency”) shall provide for the open communication of information and ideas through the use of television broadcasting to Cuba. Television broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) VOICE OF AMERICA STANDARDS.—Television broadcasting to Cuba under this part shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c)⁶ TELEVISION MARTI.—Any program of United States Government television broadcasts to Cuba authorized by this section shall be designated the “Television Marti Program”.

(d) FREQUENCY ASSIGNMENT.—

(1) Subject to the Communications Act of 1934, the Federal Communications Commission shall assign by order a suitable frequency to further the national interests expressed in this part, except that no such assignment shall result in objectionable interference with the broadcasts of any domestic licensee.

(2) No Federal branch or agency shall compel an incumbent domestic licensee to change its frequency in order to eliminate objectionable interference caused by broadcasting of the Service.

(3) For purposes of section 305 of the Communications Act of 1934, a television broadcast station established for purposes of this part shall be treated as a government station, but the Federal Communications Commission shall exercise the authority of the President under such section to assign a frequency to such station.

(e) INTERFERENCE WITH DOMESTIC BROADCASTING.—

(1) Broadcasting by the Television Marti Service shall be conducted in accordance with such parameters as shall be prescribed by the Federal Communications Commission to preclude objectionable interference with the broadcasts of any domestic licensee. The Television Marti Service shall be governed by the same standards regarding objectionable interference as any domestic licensee. The Federal Communications Commission shall monitor the operations of television broadcasting to Cuba pursuant to subsection (f). If, on the basis of such monitoring or a complaint from any person, the Federal Communications Commission determines, in its discretion, that broadcasting by the Television Marti Service is causing objectionable interference with the transmission or reception of the broadcasts of a domestic licensee, the Federal Communications Commission shall direct the Television Marti Service to cease broadcasting and to eliminate the objectionable interference. Broadcasts by the Service shall not be resumed until the Fed-

⁵ Sec. 1325(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

⁶ Sec. 1325(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “USIA” in the subsec. catchline, and struck out “USIA Television” to replace it with “the Television” in the body of the subsec.

eral Communications Commission finds that the objectionable interference has been eliminated and should not recur.

(2) The Federal Communications Commission shall take such actions as are necessary and appropriate to assist domestic licensees in overcoming the adverse effects of objectionable interference caused by broadcasting by the Television Marti Service. Such assistance may include the authorization of non-directional increases in the effective radiated power of a domestic television station so that its coverage is equivalent to the maximum allowable for such facilities, to avoid any adverse effect on such stations of the broadcasts of the Television Marti Service.

(3) If the Federal Communications Commission directs the Television Marti Service to cease broadcasting pursuant to paragraph (1), the Commission shall, as soon as practicable, notify the appropriate committees of Congress of such action and the reasons therefor. The Federal Communications Commission shall continue to notify the appropriate committees of Congress of progress in eliminating the objectionable interference and shall assure that Congress is fully informed about the operation of the Television Marti Service.

(f) **MONITORING OF INTERFERENCE.**—The Federal Communications Commission shall continually monitor and periodically report to the appropriate committees of the Congress interference to domestic broadcast licensees—

- (1) from the operation of Cuban television and radio stations; and
- (2) from the operations of the television broadcasting to Cuba.

(g) **TASK FORCE.**—It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban television and radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

SEC. 244.⁷ TELEVISION MARTI SERVICE.

(a) **TELEVISION MARTI SERVICE.**—There is⁸ within the Voice of America a Television Marti Service. The Service shall be responsible for all television broadcasts to Cuba authorized by this part. The Broadcasting Board of Governors⁹ shall appoint a head of the Service who shall report directly to the International Broadcasting Bureau.¹⁰ The head of the Service shall employ such staff as the head of the Service may need to carry out the duties of the Service.

⁷ 22 U.S.C. 1465cc. Sec. 1325(4)(A) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “OF THE UNITED STATES INFORMATION AGENCY” from the section catchline.

⁸ Sec. 1325(4)(B)(i) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Director of the United States Information Agency shall establish” and inserted in lieu thereof “There is”.

⁹ Sec. 1325(4)(B)(ii)(I) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Director of the United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. The amendment was to be applied to the second sentence in subsec. (a); it is interpreted to be applicable to the third sentence.

¹⁰ Sec. 1325(4)(B)(ii)(II) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “the Director of the Voice of America” and inserted in lieu thereof “the International Broadcasting Bureau”.

(b) **USE OF EXISTING FACILITIES OF THE USIA.**—To assure consistency of presentation and efficiency of operations in conducting the activities authorized under this part, the Television Marti Service shall make maximum feasible utilization of Board facilities¹¹ and management support, including Voice of America: Cuba Service, Voice of America, and the United States International¹² Television Service.

(c)¹³ **AUTHORITY.**—The Board¹⁴ may carry out the purposes of this part by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board¹⁴ determines will be most effective.

SEC. 245. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.

(a)¹⁵ * * *

(b)¹⁶ **REFERENCES.**—A reference in any provision of law to the “Advisory Board for Radio Broadcasting to Cuba” shall be considered to be a reference to the “Advisory Board for Cuba Broadcasting”.

(c)¹⁶ **CONTINUED SERVICE OF MEMBERS OF BOARD.**—Each member of the Advisory Board for Radio Broadcasting to Cuba as in existence on the day before the effective date of the amendment made by subsection (a) shall continue to serve for the remainder of the term to which such member was appointed as a member of the Advisory Board for Cuba Broadcasting.

(d)¹⁶ **STAFF DIRECTOR.**—The Advisory Board¹⁷ shall have a staff director who shall be appointed by the Chairperson of the Advisory Board for Cuba Broadcasting.

SEC. 246.¹⁸ ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.

In order to assist the Broadcasting Board of Governors¹⁹ in carrying out the provisions of this part, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Board.²⁰

¹¹Sec. 1325(4)(C)(i) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency facilities” and inserted in lieu thereof “Board facilities”.

¹²Sec. 1325(4)(C)(ii) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Information Agency” and inserted in lieu thereof “International”.

¹³Sec. 1325(4)(D) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “USIA” in the subsection heading.

¹⁴Sec. 1325(3) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency” and inserted in lieu thereof “Board”.

¹⁵Sec. 245(a) amended sec. 5 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c).

¹⁶22 U.S.C. 1465c note.

¹⁷Sec. 1325(5) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-782) struck out “Board” and inserted in lieu thereof “Advisory Board”.

¹⁸22 U.S.C. 1465dd.

¹⁹Sec. 1325(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

²⁰Sec. 1325(3) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency” and inserted in lieu thereof “Board”.

SEC. 247.²¹ AUTHORIZATION OF APPROPRIATIONS.

(a)²² **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise made available under section 201 for such purposes,²³ there are authorized to be appropriated to the United States Information Agency, \$16,000,000 for the fiscal year 1990 and \$16,000,000 for the fiscal year 1991 for television broadcasting to Cuba in accordance with the provisions of this part.

(b) **LIMITATION.**—

(1) Subject to paragraph (2), no funds authorized to be appropriated under subsection (a) may be obligated or expended unless the President determines and notifies the appropriate committees of Congress that the test of television broadcasting to Cuba (as authorized by title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459))²⁴ has demonstrated television broadcasting to Cuba is feasible and will not cause objectionable interference with the broadcasts of incumbent domestic licensees.²⁵ The Federal Communications

²¹ 22 U.S.C. 1465ee.

²² Sec. 201(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 420), provided the following:

“(3) **BROADCASTING TO CUBA.**—For ‘Broadcasting to Cuba’, \$21,000,000 for the fiscal year 1994 and \$27,609,000 for the fiscal year 1995.”

Previous years’ authorizations include: fiscal year 1992—\$38,988,000; fiscal year 1993—\$34,525,000 (for radio and television).

The Department of State Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-96), provided the following:

“**BROADCASTING TO CUBA**

“For expenses necessary to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.”

See also “Administrative Provision Establishing the Advisory Panel on Radio Marti and TV Marti” in Public Law 103-121.

Recent previous years’ appropriations include: fiscal year 1990—\$85,000,000 for radio construction, “of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba”. Subsequent years included funding for both radio and television: fiscal year 1991—\$31,069,000; fiscal year 1992—\$36,888,000; fiscal year 1993—\$28,531,000; fiscal year 1994—\$7,000,000; fiscal year 1005—\$24,809,000; fiscal year 1996—\$24,809,000; fiscal year 1997—\$25,000,000; fiscal year 1998—\$ 22,095,000; fiscal year 1999—\$22,095,000; and fiscal year 2000—\$22,095,000.

²³ For sec. 201, Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, see page 1006.

²⁴ Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2220) provided the following:

“**RADIO CONSTRUCTION**

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That not to exceed \$7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for and startup operations including a test of television broadcasting to Cuba: *Provided further*, That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service’s drug interdiction efforts and the United States Information Agency’s test of television broadcasting to Cuba: *Provided further*, That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further*, That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further*, That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licenses.”

²⁵ The President determined in a memorandum to the Secretary of State that the test of television broadcasting to Cuba as authorized by Public Law 100-459 demonstrated that such

Commission shall furnish to the appropriate committees of Congress all interim and final reports and other appropriate documentation concerning objectionable interference from television broadcasting to Cuba to incumbent domestic licensees.

(2) Not less than 30 days before the President makes the determination under paragraph (1), the President shall submit a report to the appropriate committees of the Congress which includes the findings of the test of television broadcasting to Cuba. The period for the test of television broadcasting may be extended until—

(A) the date of the determination and notification by the President under paragraph (1), or

(B) 30 days,

whichever comes first.

(c)²⁶ AVAILABILITY OF FUNDS.—Amounts appropriated to carry out the purposes of this part are authorized to be available until expended.

SEC. 248.²⁷ DEFINITIONS.

As used in this part—

(1) the term “licensee” has the meaning provided in section 3(c) of the Communications Act of 1934;

(2) the term “incumbent domestic licensee” means a licensee as provided in section 3(c) of the Communications Act of 1934 that was broadcasting a television signal as of January 1, 1989;

(3) the term “objectionable interference” shall be applied in the same manner as such term is applied under regulations of the Federal Communications Commission to other domestic broadcasters; and

(4) the term “appropriate committees of Congress” includes the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives²⁸ and the Committee on Foreign Relations of the Senate.

* * * * *

broadcasting was feasible and would not cause objectionable interference with the broadcasts of incumbent domestic licenses (Presidential Determination No. 90-35 of August 26, 1990 (55 F.R. 38659)).

²⁶Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 703), added subsec. (c).

²⁷22 U.S.C. 1465ff.

²⁸Sec. 1(a)(4) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

b. Radio Broadcasting to Cuba Act

Public Law 98-111 [S. 602], 97 Stat. 749, approved October 4, 1983; as amended by Public Law 98-411 [Department of State Appropriations, 1985; H.R. 5712], 98 Stat. 1545 at 1574, approved August 30, 1984; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114; 110 Stat. 798 and 809), as amended, provides the following:

“SEC. 107 [22 U.S.C. 6037]. TELEVISION BROADCASTING TO CUBA.

“(a) CONVERSION TO UHF.—The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

“(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

“(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.”.

* * * * *

“SEC. 203 [22 U.S.C. 6063]. COORDINATION OF ASSISTANCE PROGRAM: IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING. * * *

“(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—* * *

“(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).”

AN ACT To provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Radio Broadcasting to Cuba Act”.

FINDINGS; PURPOSES

SEC. 2.¹ The Congress finds and declares—

(1) that it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) that, consonant with this policy, radio broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba, in particular information about Cuba;

(3) that such broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest; and

(4) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions but that there is a need for broadcasts to Cuba which provide news, commentary and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

ADDITIONAL FUNCTIONS OF THE BROADCASTING BOARD OF GOVERNORS²

SEC. 3.³ (a) In order to carry out the objectives set forth in section 2, the Broadcasting Board of Governors² (hereafter in this Act referred to as the “Board”)⁴ shall provide for the open communication of information and ideas through the use of radio broadcasting to Cuba. Radio broadcasting to Cuba shall serve as a consistently

¹ 22 U.S.C. 1465.

² Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

³ 22 U.S.C. 1465a.

⁴ Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency” and inserted in lieu thereof “Board”.

reliable and authoritative source of accurate, objective, and comprehensive news.

(b) Radio broadcasting in accordance with subsection (a) shall be part of the Voice of America radio broadcasting to Cuba and shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c) Radio broadcasting to Cuba authorized by this Act shall utilize the broadcasting facilities located at Marathon, Florida, and the 1180 AM frequency that were used by the Voice of America prior to the date of enactment of this Act. Other frequencies, not on the commercial Amplitude Modulation (AM) Band (535 kHz to 1605 kHz), may also be simultaneously utilized: *Provided*, That no frequency shall be used for radio broadcasts to Cuba in accordance with this Act which is not also used for all other Voice of America broadcasts to Cuba. Time leased from nongovernmental shortwave radio stations may be used to carry all or part of the Service programs and to rebroadcast Service programs: *Provided*, That not less than 30 per centum of the programs broadcast or rebroadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(d) Notwithstanding subsection (c), in the event that broadcasts to Cuba on the 1180 AM frequency are subject to jamming or interference greater by 25 per centum or more than the average daily jamming or interference in the twelve months preceding September 1, 1983, the Broadcasting Board of Governors⁵ may lease time on commercial or noncommercial educational AM band radio broadcasting stations. The Federal Communications Commission shall determine levels of jamming and interference by conducting regular monitoring of the 1180 AM frequency. In the event that more than two hours a day of time is leased, not less than 30 per centum of the programing broadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(e) Any program of United States Government radio broadcasts to Cuba authorized by this section shall be designated "Voice of America: Cuba Service" or "Voice of America: Radio Marti program".

(f) In the event broadcasting facilities located at Marathon, Florida, are rendered inoperable by natural disaster or by unlawful destruction, the Broadcasting Board of Governors⁶ may, for the pe-

⁵Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Sec. 1324(3) of that Act, however, struck out "the Director of the United States Information Agency" and inserted in lieu thereof "the Broadcasting Board of Governors" throughout this Act. This second amendment is not executable because each reference to USIA is amended by the first amendment. It is interpreted, however, that each instance where there is reference to the USIA Director, that the second amendment applies.

⁶Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Sec. 1324(3) of that Act, however, struck out "the Director of the United States Information Agency" and inserted in lieu thereof "the Broadcasting Board of Governors" throughout this Act. This second amendment is not executable because each reference to USIA is amended by the first amendment. It is interpreted, however, that each instance where there is reference to the USIA Director, that the second amendment applies.

riod in which the facilities are inoperable but not to exceed one hundred and fifty days, use other United States Government-owned transmission facilities for Voice of America broadcasts to Cuba authorized by this Act.

CUBA SERVICE OF THE INTERNATIONAL BROADCASTING BUREAU⁷

SEC. 4.⁸ The Broadcasting Board of Governors⁹ shall establish within the International Broadcasting Bureau⁷ a Cuba Service (hereafter in this section referred to as the "Service"). The Service shall be responsible for all radio broadcasts to Cuba authorized by section 3. The Broadcasting Board of Governors⁹ shall appoint a head of the Service and shall employ such staff as the head of the Service may need to carry out his duties. The Cuba Service shall be administered separately from other International Broadcasting Bureau⁷ functions and the head of the Cuba Service shall report directly to the Board¹⁰ of the International Broadcasting Bureau.¹¹

ADVISORY BOARD FOR CUBA BROADCASTING¹²

SEC. 5.¹³ (a)¹⁴ There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the "Advisory Board").¹⁵ The Advisory Board¹⁶ shall

⁷Sec. 1324(4) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "the Voice of America" and inserted in lieu thereof "the International Broadcasting Bureau".

⁸22 U.S.C. 1465b.

⁹Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Sec. 1324(3) of that Act, however, struck out "the Director of the United States Information Agency" and inserted in lieu thereof "the Broadcasting Board of Governors" throughout this Act. This second amendment is not executable because each reference to USIA is amended by the first amendment. It is interpreted, however, that each instance where there is reference to the USIA Director, that the second amendment applies.

¹⁰Sec. 1324(6) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Director" and inserted in lieu thereof "Board".

¹¹Sec. 1324(4) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "the Voice of America" and inserted in lieu thereof "the International Broadcasting Bureau". Previously, sec. 305(d)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 436), struck out "and the Associate Director for Broadcasting of the United States Information Agency", and inserted in lieu thereof "of the Voice of America".

¹²Sec. 245(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), amended this section heading. It formerly read: "Board for Radio Broadcasting to Cuba".

Sec. 245(b) of that Act provided that "reference in any provision of law to the 'Advisory Board for Radio Broadcasting to Cuba' shall be considered to be a reference to the 'Advisory Board for Cuba Broadcasting'".

Sec. 245(c) of that Act provided that any member of the Advisory Board for Radio Broadcasting to Cuba shall serve out the remainder of his/her term of appointment as a member of the Advisory Board for Cuba Broadcasting.

¹³22 U.S.C. 1465c.

¹⁴Sec. 245(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), restated subsecs. (a) and (b).

¹⁵Sec. 1324(5)(B) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "There is established within the Office of the President the Advisory Board for Cuba Broadcasting (hereafter in this Act referred to as the 'Advisory Board')." and inserted in lieu thereof "There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the 'Advisory Board')".

¹⁶Sec. 1324(5)(A) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Board" and inserted in lieu thereof "Advisory Board" throughout sec. 5. It is interpreted that this amendment is applicable only where "Board" stands alone and is not in the larger context of "Board of Governors" or "Board" as previously amended by sec. 1324(1), (2), or (3).

consist of nine members, appointed by the President by and with the advice and consent of the Senate, of whom not more than five shall be members of the same political party. The President shall designate one member of the Advisory Board¹⁶ to serve as chairperson.

(b)¹⁴ The Advisory Board¹⁶ shall review the effectiveness of the activities carried out under this Act and the Television Broadcasting to Cuba Act shall make such recommendations to the President and the Broadcasting Board of Governors¹⁷ as it may consider necessary.

(c) In appointing the initial voting members of the Advisory Board,¹⁶ the President shall designate three members to serve for a term of three years, three members to serve for a term of two years, and three members to serve for a term of one year. Thereafter, the term of each member of the Advisory Board¹⁶ shall be three years. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

(d)¹⁸ The head of the Cuba Service and the head of the Television Marti Service shall serve, ex officio, as members of the Advisory Board.¹⁶

(e) Members of the Advisory Board¹⁶ appointed by the President shall, while attending meetings of the Advisory Board¹⁶ or while engaged in duties relating to such meetings or in other activities of the Advisory Board¹⁶ pursuant to this section, including travel-time, be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The ex officio members¹⁸ of the Advisory Board¹⁶ shall not be entitled to any compensation under this section, but may be allowed travel expenses as provided in the preceding sentence.

(f) The Advisory Board¹⁶ may, to the extent it deems necessary to carry out its functions under this section, procure supplies, services, and other personal property, including specialized electronic equipment.

(g) Notwithstanding any other provision of law, the Board shall remain in effect indefinitely.

(h) There are authorized to be appropriated \$130,000 to carry out the provisions of this section.

¹⁷Sec. 305(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 436), struck out "Director and Associate Director for Broadcasting of the United States Information Agency", and inserted in lieu thereof "Broadcasting Board of Governors".

¹⁸Sec. 245(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), restated subsec. (d); and in subsec. (e) struck out "The ex officio member" and inserted in lieu thereof "The ex officio members".

ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

SEC. 6.¹⁹ (a) In order to assist the Broadcasting Board of Governors²⁰ in carrying out the purposes set forth in section 2, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Board.²¹ Support and services shall be provided on a reimbursable basis. Any reimbursement shall be credited to the appropriation from which the property, support, or services was derived.

(b) The Board²¹ may carry out the purposes of section 3 by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board²¹ determines will be most effective.

FACILITY COMPENSATION

SEC. 7.²² (a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.

(b) Accordingly, the Board²³ may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment replaced²⁴ (less depreciation) and associated technical and engineering costs.

(c) The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after enactment of this Act.

(d) There are authorized to be appropriated to the Board,²⁵ \$5,000,000 for use in compensating United States radio broadcast-

¹⁹22 U.S.C. 1465d.

²⁰Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

²¹Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

²²22 U.S.C. 1465e.

²³Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

²⁴Sec. 512 of Public Law 98-411 (98 Stat. 1574), moved the parenthetical bracket in subsec. (b) from before "replaced" to before "less".

²⁵Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

ing licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

(e) Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this Act.

(f) It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(g) This section shall enter into effect on October 1, 1984.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8.²⁶ (a) There are authorized to be appropriated for the Broadcasting Board of Governors²⁷ \$14,000,000 for fiscal year 1984,²⁸ and \$11,000,000 for fiscal year 1985 to carry out sections 3 and 4 of this Act. The amount obligated by the Broadcasting Board of Governors²⁷ in ensuing fiscal years shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level.

(b) In addition to amounts otherwise authorized to be appropriated to the Board²⁹ for the fiscal years 1984 and 1985, there are authorized to be appropriated to the Board²⁹ \$54,800,000 for the fiscal year 1984 and \$54,800,000 for the fiscal year 1985, which

²⁶ 22 U.S.C. 1465f.

²⁷ Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

²⁸ Sec. 201(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 420), provided the following:

"(3) BROADCASTING TO CUBA.—For 'Broadcasting to Cuba', \$21,000,000 for the fiscal year 1994 and \$27,609,000 for the fiscal year 1995."

Authorizations for recent years for radio broadcasting include: fiscal year 1986—\$11,500,000; fiscal year 1987—\$11,700,000; fiscal year 1988—\$12,652,000; fiscal year 1989—\$12,905,000; fiscal year 1990—\$12,700,000; fiscal year 1991—\$13,208,000. Recent authorizations for Cuba radio and television include: fiscal year 1992—\$38,988,000; fiscal year 1993—\$34,525,000.

The Department of State Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-96), provided the following:

"BROADCASTING TO CUBA

"For expenses necessary to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended."

See also "Administrative Provision Establishing the Advisory Panel on Radio Marti and TV Marti" in Public Law 103-121.

Recent previous years' appropriations include: fiscal year 1990—\$85,000,000 for radio construction, "of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba"; fiscal year 1991—\$31,069,000; fiscal year 1992—\$36,888,000; fiscal year 1993—\$28,531,000 (for radio and television); fiscal year 1994—\$7,000,000 (for radio and television); fiscal year 1005—\$24,809,000 (for radio and television); fiscal year 1996—\$24,809,000 (for radio and television).

Recent previous years' appropriations include: fiscal year 1990—\$85,000,000 for radio construction, "of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba". Subsequent years included funding for both radio and television: fiscal year 1991—\$31,069,000; fiscal year 1992—\$36,888,000; fiscal year 1993—\$28,531,000; fiscal year 1994—\$7,000,000; fiscal year 1005—\$24,809,000; fiscal year 1996—\$24,809,000; fiscal year 1997—\$25,000,000; fiscal year 1998—\$ 22,095,000; fiscal year 1999—\$22,095,000; and fiscal year 2000—\$22,095,000.

²⁹ Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

amounts shall be available only for expenses incurred by essential modernization of the facilities and operations of the Voice of America.

(c) Amounts appropriated under this section are authorized to be made available until expended.

SEC. 9.³⁰ * * * [Repealed—1994]

³⁰ Formerly at 22 U.S.C. 1465g, Sec. 139(9) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed sec. 9, which had required an independent evaluation of Cuba Service programming.

c. Establishing Advisory Panel on Radio Marti and TV Marti

Partial text of Public Law 103-121 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1994; H.R. 2519], 107 Stat. 1153 at 1192, approved October 27, 1993

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes, namely:

* * * * *

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

* * * * *

RELATED AGENCIES

* * * * *

UNITED STATES INFORMATION AGENCY¹

* * * * *

ADMINISTRATIVE PROVISION ESTABLISHING THE ADVISORY PANEL ON RADIO MARTI AND TV MARTI

(a) **ESTABLISHMENT.**—There is established an advisory panel to be known as the Advisory Panel on Radio Marti and TV Marti (in this section referred to as the “Panel”).

(b) **FUNCTIONS.**—The Panel shall study the purposes, policies, and practices of radio and television broadcasting to Cuba (commonly referred to as “Radio Marti” and “TV Marti”) by the Cuba Service of the Voice of America.

(c) **REPORT.**—Not later than 90 days after the date on which the members of the Panel have been appointed pursuant to subsection (d), the Panel shall submit to the Congress and the United States Information Agency (USIA) a report which shall contain—

¹Subsequently, sec. 1311 of the of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.” See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

(1) a statement of the findings and conclusions of the Panel on the matters described in subsection (b); and

(2) specific findings and recommendations with respect to whether—

(A) such broadcasting consistently meets the standards for quality and objectivity established by law or by the United States Information Agency;

(B) such broadcasting is cost-effective;

(C) the extent to which such broadcasting is already being received by the Cuban people on a daily basis from credible sources; and

(D) TV Marti broadcasting is technically sound and effective and is consistently being received by a sufficient Cuban audience to warrant its continuation.

(d) COMPOSITION.—(1) The Panel shall be composed of three members, who shall among them have expertise in government information and broadcasting programs, broadcast journalism, journalistic ethics, and the technical aspects of radio and television broadcasting.

(2) The Director of the United States Information Agency shall appoint the members of the Panel not later than 30 days after the date of the enactment of this Act. Individuals appointed to the Panel shall be noted for their integrity, expertise, and independence of judgment consistent with the purposes of the Panel.

(3) Each member of the Panel shall be appointed for the life of the Panel. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(4) Each member of the Panel shall serve without pay, except that such member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) TEMPORARY PERSONNEL.—(1) The Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code (relating to employment of experts and consultants), at rates for individuals not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) Upon request of the Panel, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Panel to assist it in carrying out its duties under this section.

(3) SUPPORT SERVICES.—The United States Information Agency shall provide facilities, supplies, and support services to the Panel upon request.

(f) TERMINATION.—The Panel shall terminate immediately upon submitting its report pursuant to subsection (c).

* * * * *

20. Establishing a Commission on Security and Cooperation in Europe

Public Law 94-304 [S. 2679], 90 Stat. 661, approved June 3, 1976; as amended by Public Law 94-534 [H.R. 15813], 90 Stat. 2495, approved October 17, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 96-60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 403, approved August 15, 1979; Public Law 99-7 [S. 592], 99 Stat. 19, approved March 27, 1985; Public Law 99-190 [Further Continuing Appropriations, Fiscal Year 1986; H.R. 465], 99 Stat. 1322, approved December 19, 1985; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 104-186 [House of Representatives Administrative Reform Technical Corrections Act; H.R. 2739], 110 Stat. 1718, approved August 20, 1996

AN ACT To establish a Commission on Security and Cooperation in Europe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*¹ That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

SEC. 2.² The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and³ Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

SEC. 3.⁴ (a) The Commission shall be composed of twenty-one members as follows:

¹ 22 U.S.C. 3001. Sec. 422 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 457) provided the following:

"SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.

"The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Ministers of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex."

² 22 U.S.C. 3002.

³ The words "human rights and" were added by sec. 2 of Public Law 99-7 (99 Stat. 18).

⁴ 22 U.S.C. 3003. Sec. 3 was amended and restated by secs. (1)(a) and (b) of Public Law 99-7, (99 Stat. 18). It previously read as follows:

"SEC. 3. The Commission shall be composed of fifteen members as follows:

"(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

"(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

"(3) One member of the Department of State appointed by the President of the United States.

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five Members shall be selected from the majority party and four Members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and four Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Department of Defense appointed by the President of the United States.

(5) One member of the Department of Commerce appointed by the President of the United States.

(b) There shall be a Chairman and a Cochairman of the Commission.

(c)⁵ At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(d)⁵ At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

SEC. 4.⁶ In carrying out this Act, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

⁴(4) One member of the Defense Department appointed by the President of the United States.

⁵(5) One member of the Commerce Department appointed by the President of the United States.”

⁵Sec. 6(b)(1) of Public Law 99-7 (99 Stat. 14), provided that the provisions of sec. 3(c) and (d) shall take effect on the first day of the One Hundredth Congress. Sec. 3(c) of Public Law 99-7 (99 Stat. 18) further stated:

“On the effective date of this subsection, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members to serve as Chairman of the Commission for the duration of the Ninety-ninth Congress, and the Speaker of the House of Representatives shall designate one of the House Members to serve as Cochairman of the Commission for the duration of the Ninety-ninth Congress.”

⁶22 U.S.C. 3004.

SEC. 5.⁷ In order to assist the Commission in carrying out its duties, the President shall submit to the Commission an annual⁸ report,⁹ which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

SEC. 6.¹⁰ The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

SEC. 7.¹¹ (a)(1)¹² There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

(2)¹² Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman, or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 8(a).

(b)¹³ For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such sections.

(c)¹⁴ Not to exceed \$6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

⁷22 U.S.C. 3005. In a memorandum of February 10, 1992, for the Secretary of State, the President delegated functions in this section to the Secretary (57 F.R. 5367).

⁸Sec. 171(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 679), struck out "a semiannual" and inserted in lieu thereof "an annual".

⁹Sec. 171(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 679), struck out "the first one to be submitted six months after the date of enactment of this Act" from this point [two commas following "report" were not struck out by the amendment].

¹⁰22 U.S.C. 3006.

¹¹22 U.S.C. 3007(a). See sec. 102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 19) for current authorization and restrictions.

Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-99), provided the following:

"COMMISSION ON SECURITY AND COOPERATION IN EUROPE

"SALARIES AND EXPENSES

"For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$1,370,000, to remain available until expended as authorized by section 3 of Public Law 99-7."

¹²Secs. 7(a)(1) and (2) were amended and restated by Public Law 99-7 (99 Stat. 18). Previously, sec. 702 of Public Law 95-426 authorized \$550,000 to assist in meeting the expenses of the Commission. This latter authorization replaced a previous one of \$350,000.

¹³Subsec. (b) was added by Public Law 94-534.

¹⁴Subsec. (c) was added by sec. 401 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 403).

(d)¹⁵ Foreign travel for official purposes by Commission members and staff may be authorized by either the Chairman or the Co-chairman.

SEC. 8.¹⁶ (a) The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior Commission member from the minority party in the House of Representatives, and the senior Commission member from the minority party in the Senate.

(b) All decisions pertaining to the hiring, firing, and fixing of pay of Commission staff personnel shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of his senior staff person; and

(2) the Chairman and Cochairman each shall have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

The personnel and administration committee may appoint and fix the pay of such other staff personnel as it deems desirable.

(c) All staff appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d)¹⁷ (1) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(2) For purposes of section 3304(c)(1) of title 5, United States Code, staff personnel of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Chief Administrative Officer¹⁸ of the House of Representatives.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be effective as of June 3, 1976.

SEC. 9.¹⁹ For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

¹⁵Subsec. (d) was added by sec. 4 of Public Law 99-7 (99 Stat. 18).

¹⁶22 U.S.C. 3008. Sec. 8 was amended and restated by sec. 5 of Public Law 99-7 (99 Stat. 18). It previously read as follows:

“Sec. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.”

¹⁷Sec. 6(b)(2) of Public Law 99-7 (99 Stat. 14) provided that subsec. (d) shall be effective as of June 3, 1976.

¹⁸Sec. 218(3) of Public Law 104-186 (110 Stat. 1747) struck out “Clerk” and inserted in lieu thereof “Chief Administrative Officer”.

¹⁹Sec. 9 was added by sec. 134 of the Further Continuing Appropriations Act, Fiscal Year 1986 (Public Law 99-190; 99 Stat. 1322).

F. ARMS CONTROL AND DISARMAMENT

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1. Arms Control and Disarmament Act, as amended

Public Law 87-297 [H.R. 9118], 75 Stat. 631, approved September 26, 1961, as amended by Public Law 88-186 [S. 777], 77 Stat. 341, approved November 26, 1963; Public Law 88-426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88-448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89-27 [H.R. 2998], 79 Stat. 118, approved May 27, 1965; Public Law 90-314 [H.R. 14940], 82 Stat. 129, approved May 23, 1968; Public Law 91-246 [S. 3544], 84 Stat. 270, approved May 12, 1970; Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93-332 [H.R. 12799], 88 Stat. 289, approved July 8, 1974; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 95-108 [H.R. 6179], 91 Stat. 871, approved August 17, 1977; Public Law 95-338 [H.R. 11832], 92 Stat. 458, approved August 8, 1978; Public Law 96-66 [H.R. 2774], 93 Stat. 414, approved September 21, 1979; Public Law 96-465 [H.R. 6790], 94 Stat. 2071 at 2159, approved October 17, 1980; Public Law 97-339 [H.R. 3467], 96 Stat. 1635, approved October 15, 1982; Public Law 98-202 [H.R. 2906], 97 Stat. 1381, approved December 2, 1983; Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-550 [H.R. 3641], 100 Stat. 3067, approved October 27, 1986; Public Law 100-213 [H.R. 2689], 101 Stat. 1444, approved December 24, 1987; Public Law 101-216 [H.R. 1495], 103 Stat. 1853, approved December 11, 1989; Public Law 102-228 [H.R. 3807], 105 Stat. 1691, approved December 12, 1991; Public Law 103-199 [H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-277 [H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and Public Law 106-113 [H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To establish a United States Arms Control and Disarmament Agency.

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

TITLE I—SHORT TITLE, PURPOSE, AND DEFINITIONS

SHORT TITLE

SECTION 101.¹ This Act may be cited as the “Arms Control and Disarmament Act”.

PURPOSE

SEC. 102.² An ultimate goal of the United States is a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. It is the purpose of this Act to pro-

¹ 22 U.S.C. 2551 note. Redesignated from sec. 1 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

² 22 U.S.C. 2551. Redesignated from sec. 2 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

vide impetus toward this goal by addressing³ the problem of reduction and control of armaments looking toward ultimate world disarmament.⁴

The Secretary of State⁵ must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control, nonproliferation,⁶ and disarmament policy must be based. The Secretary shall have the authority, under the direction of the President,⁷ to carry out the following primary functions:⁸

(1) The preparation for and management of United States participation in international negotiations and implementation fora in the arms control, nonproliferation,⁹ and disarmament field.

(2)¹⁰ The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

(3)¹⁰ The preparation for, operation of, or¹¹ direction of, United States participation in such control systems as may be-

³Sec. 1223(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768) struck out "creating a new agency of peace to deal with" and inserted in lieu thereof "addressing".

⁴Sec. 1223(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768) struck out an undesignated para. following this para., which read as follows:

⁵Arms control, nonproliferation, and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control, nonproliferation, and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field. This organization must have such a position within the Government that it can provide the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control, nonproliferation, and disarmament policy, and can assess the effect of these recommendations upon our foreign policies, our national security policies, and our economy."

⁵Sec. 1223(1)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768) struck out "This organization" and inserted in lieu thereof "The Secretary of State".

⁶Sec. 719(a)(2) of Public Law 103-236 (108 Stat. 501) inserted ", nonproliferation" after "arms control".

⁷Sec. 144 of Public Law 94-141 struck out "It must be able" and inserted "It shall have the authority, under the direction of the President and the Secretary of State,". Sec. 1223(1)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768) subsequently struck out "It shall have" and inserted in lieu thereof "The Secretary shall have", and struck out "and the Secretary of State" following "under the direction of the President".

⁸Sec. 703 of Public Law 103-236 (108 Stat. 491) struck paras. (a) through (d) and inserted in lieu thereof paras. (1) through (5). Paragraphs (a) through (d) had read as follows:

"(a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

"(b) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

"(c) The dissemination and coordination of public information concerning arms control and disarmament; and

"(d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities."

⁹Sec. 1223(1)(C)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768) inserted ", nonproliferation," after "arms control".

¹⁰Sec. 1223(1)(C)(v) and (vi) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768, 769) struck out para. (2) and redesignated paras. (3) through (5) as paras. (2) through (4). Former para. (2) read as follows:

"(2) When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field."

¹¹Sec. 1223(1)(C)(vii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out ", as appropriate," following "operation of, or".

come part of United States arms control, nonproliferation, and disarmament activities.

(4)¹⁰ The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.

DEFINITIONS

SEC. 103.¹² As used in this Act—

(a) The terms “arms control” and “disarmament” mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.

(b) The term “Government agency” means any executive department, commission, agency, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of Government.

TITLE II—SPECIAL REPRESENTATIVES AND VISITING SCHOLARS¹³

SEC. 21.¹⁴ [Repealed—1998]

SEC. 22.¹⁵ [Repealed—1998]

SEC. 23.¹⁶ [Repealed—1998]

SEC. 24.¹⁷ [Repealed—1998]

SEC. 25.¹⁸ [Repealed—1998]

SEC. 26.¹⁹ [Repealed—1998]

¹²22 U.S.C. 2552. Redesignated from sec. 3 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). Sec. 1223(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out subsec. (c) to this sec., which had provided the following:

“(c) The term ‘Agency’ means the United States Arms Control and Disarmament Agency.”

¹³Sec. 1223(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out “**ORGANIZATION**” and inserted in lieu thereof “**SPECIAL REPRESENTATIVES AND VISITING SCHOLARS**”.

¹⁴Formerly at 22 U.S.C. 2561. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the establishment of the Arms Control and Disarmament Agency.

¹⁵Formerly at 22 U.S.C. 2562. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the appointment and duties of the Director.

¹⁶Formerly at 22 U.S.C. 2563. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the appointment and duties of the Deputy Director.

¹⁷Formerly at 22 U.S.C. 2564. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the appointment and duties of four Assistant Directors.

¹⁸Formerly at 22 U.S.C. 2565. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to bureaus, office, and divisions within ACDA.

¹⁹Formerly at 22 U.S.C. 2566. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). As amended, pertained to establishment of a Scientific and Policy Advisory Committee.

PRESIDENTIAL SPECIAL REPRESENTATIVES

SEC. 201.²⁰ The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador.²¹ Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under the direction of the President and the Secretary of State.²² The Department of State²³ shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.

PROGRAM FOR VISITING SCHOLARS

SEC. 202.²⁴ A program for visiting scholars in the fields of arms control, nonproliferation, and disarmament²⁵ shall be established by the Secretary of State²⁶ in order to obtain the services of scholars from the faculties of recognized institutes of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Department of State's²⁷ activities an opportunity for active participation in the arms control, nonproliferation,²⁸ and disarmament activities of the Department of State²⁷ and to gain for the Department of State²⁷ the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1-year period. Fellows shall be chosen by a board consisting of the Secretary of State,²⁷ who shall be the chairperson, and all former Directors of the Agency.

²⁰ 22 U.S.C. 2567. Redesignated from sec. 27 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). This section, originally added by sec. 2(a) of Public Law 95-108, and amended by sec. 103(a) of Public Law 101-216, was amended and restated by sec. 708(a) of Public Law 103-236 (108 Stat. 493). Sec. 708(b) of that Act amended 5 U.S.C. 5315, which established the compensation of Special Representatives at level IV of the Executive Schedule, to remove the limitation of two on the number of such representatives. The rate of compensation for level IV is set at \$122,400 per annum by Schedule 5 of Executive Order 13144 (December 21, 1999; 64 F.R. 72237).

²¹ Sec. 1223(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out a third sentence at this point that had read as follows:

"One such Representative may serve in the Agency as Chief Science Advisor."

²² Sec. 1223(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out ", acting through the Director" at this point.

²³ Sec. 1223(4)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Agency" and inserted in lieu thereof "Department of State".

²⁴ 22 U.S.C. 2568. Sec. 3 of Public Law 98-202 added this section. Redesignated from sec. 28 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

²⁵ Sec. 719(b)(1) of Public Law 103-236 (108 Stat. 501) struck out "field of arms control and disarmament", and inserted in lieu thereof "fields of arms control, nonproliferation, and disarmament".

²⁶ Sec. 1223(5)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Director" and inserted in lieu thereof "Secretary of State".

²⁷ Sec. 1223(5)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Agency" and inserted in lieu thereof "Department of State"; and struck out "Agency's" and inserted in lieu thereof "Department of State's" in this sentence.

²⁸ Sec. 719(b)(2) of Public Law 103-236 (108 Stat. 501) inserted ", nonproliferation," after "arms control".

TITLE III—FUNCTIONS

RESEARCH

SEC. 301.²⁹ The Secretary of State³⁰ is authorized and directed to exercise his powers in this title in³¹ such manner as to ensure³² the acquisition of a fund of theoretical and practical knowledge concerning disarmament and nonproliferation.³³ To this end, the Secretary of State³⁰ is authorized and directed, under the direction of the President, (1) to ensure³² the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament;³⁴ (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament²⁵ by³⁵ private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the fields of arms control, nonproliferation, and disarmament²⁵ by or for other Government agencies.³⁶ In carrying out his responsibilities under this Act, the Secretary of State³⁰ shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the Secretary under this Act, with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:³⁷

(a) the detection, identification, inspection, monitoring, limitation, reduction, control, and elimination of armed forces and armaments, including thermonuclear, nuclear, missile, conventional, bacteriological, chemical, and radiological weapons;

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear, and other weapons;

(c) the analysis of national budgets, levels of industrial production, and economic indicators to determine the amounts

²⁹ 22 U.S.C. 2571. Redesignated from sec. 31 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

³⁰ Sec. 1223(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Director" and inserted in lieu thereof "Secretary of State" throughout this sec.

³¹ Sec. 1223(6)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) inserted "this title in" after "powers in".

³² Sec. 1223(6)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "insure" and inserted in lieu thereof "ensue".

³³ Sec. 719(c)(2) of Public Law 103-236 (108 Stat. 501) inserted "and nonproliferation" after "disarmament".

³⁴ Sec. 719(c)(1) of Public Law 103-236 (108 Stat. 501) struck out "field of arms control and disarmament", and inserted in lieu thereof "fields of arms control, nonproliferation, and disarmament".

³⁵ Sec. 5 of Public Law 88-186 inserted the words "United States" between the words "by" and "private". Sec. 3 of Public Law 95-108 subsequently struck out the words "United States".

³⁶ Sec. 1223(6)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "in accordance with procedures established under section 35 of this Act" at this point.

³⁷ Sec. 1223(6)(E) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "The authority of the Secretary of State with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control, nonproliferation, and disarmament:" and inserted in lieu thereof "The authority of the Secretary under this Act, with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:".

spent by various countries for armaments and of all aspects of antisatellite activities;³⁸

(d) the control, reduction, and elimination of armed forces and armaments in space, in areas on and beneath the earth's surface, and in underwater regions;

(e) the structure and operation of international control and other organizations useful for arms control, nonproliferation,³⁹ and disarmament;

(f) the training of scientists, technicians, and other personnel for manning the control systems which may be created by international arms control, nonproliferation,³⁹ and disarmament agreements;

(g) the reduction and elimination of the danger of war resulting from accident, miscalculation, or possible surprise attack, including (but not limited to) improvements in the methods of communications between nations;

(h) the economic and political consequences of arms control, nonproliferation,³⁹ and disarmament, including the problems of readjustment arising in industry and the reallocation of national resources;

(i) the arms control, nonproliferation,³⁹ and disarmament implications of foreign and national security policies of the United States with a view to a better understanding of the significance of such policies for the achievement of arms control, nonproliferation,³⁹ and disarmament;

(j) the national security and foreign policy implications of arms control, nonproliferation,³⁹ and disarmament proposals with a view to a better understanding of the effect of such proposals upon national security and foreign policy;

(k) methods for the maintenance of peace and security during different stages of arms control, nonproliferation,³⁹ and disarmament;

(l) the scientific, economic, political, legal, social, psychological, military, and technological factors related to the prevention of war with a view to a better understanding of how the basic structure of a lasting peace may be established; and⁴⁰

(m) such related problems as the Secretary of State³⁰ may determine to be in need of research, development, or study in order to carry out the provisions of this Act.

PATENTS

SEC. 302.⁴¹ All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information as to uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will

³⁸Sec. 4 of Public Law 97-339 inserted the words "and of all aspects of antisatellite activities".

³⁹Sec. 719(c)(3) of Public Law 103-236 (108 Stat. 501) inserted ", nonproliferation," after "arms control".

⁴⁰Sec. 1223(G)(F) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) inserted "and".

⁴¹22 U.S.C. 2572. Redesignated from sec. 32 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

(with such exceptions and limitations, if any, as the Secretary of State⁴² may find to be necessary in the public interest) be available to the general public. This section⁴³ shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder.

POLICY FORMULATION

SEC. 303.⁴⁴ (a) FORMULATION.—The Secretary of State⁴⁵ shall prepare for the President,⁴⁶ and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

(b) PROHIBITION.—No action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.

(c)⁴⁷ STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.

NEGOTIATION MANAGEMENT

SEC. 304.⁴⁸ (a) RESPONSIBILITIES.—The Secretary of State,⁴⁹ under the direction of the President,⁵⁰ shall have primary responsibility for the preparation, conduct, and management of United

⁴² Sec. 1223(7)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Director" and inserted in lieu thereof "Secretary of State".

⁴³ Sec. 1223(7)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "subsection" and inserted in lieu thereof "section".

⁴⁴ 22 U.S.C. 2573. Redesignated from sec. 33 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). Sec. 709 of Public Law 103-236 (108 Stat. 494) restated this sec. and amended it by adding the words, "in a militarily significant manner" in para. (b), and to delete a final sentence which had been added by sec. 3 of Public Law 88-186 and read, "Nothing contained in this Act shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training."

⁴⁵ Sec. 1223(8)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Director" and inserted in lieu thereof "Secretary of State".

⁴⁶ Sec. 1223(8)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "the Secretary of State," at this point.

⁴⁷ Sec. 2602 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-839) added subsec. (c).

⁴⁸ 22 U.S.C. 2574. Redesignated from sec. 34 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). Sec. 710 of Public Law 103-236 (108 Stat. 494) restated this sec. and its heading, and amended it by adding para. (a) and the provisions relating to nonproliferation.

⁴⁹ Sec. 1223(9)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "Director" and inserted in lieu thereof "Secretary of State".

⁵⁰ Sec. 1223(9)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out "and the Secretary of State".

States participation in all international negotiations and implementation fora in the fields of arms control, nonproliferation,⁵¹ and disarmament.⁵² In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 201,⁵³ shall, as directed by the President, serve as⁵⁴ United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation,⁵⁵ such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) ⁵⁶AUTHORITY.—The Secretary of State⁵⁷ is authorized—

(1)⁵⁸ to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

(2)⁵⁸ as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.

SEC. 35.⁵⁹ [Repealed—1998]

ARMS CONTROL INFORMATION⁶⁰

SEC. 305.⁶¹ In order to assist the Secretary of State⁶² in the performance of his duties with respect to arms control, nonprolifera-

⁵¹Sec. 1223(9)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) inserted “, nonproliferation,” after “in the fields of arms control”.

⁵²Sec. 1223(9)(A)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-769) struck out “and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of United States participation in international negotiations and implementation fora in the field of nonproliferation” after “disarmament”.

⁵³Sec. 1223(9)(A)(v) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “section 27” and inserted in lieu thereof “section 201”.

⁵⁴Sec. 1223(9)(A)(vi) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “the” following “serve as”.

⁵⁵For additional statutory requirements relating to persons representing the United States “in such organs, commissions or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament)”, see sec. 2(b) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(b)).

⁵⁶Sec. 1223(9)(B) and (C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out subsec. (b) and redesignated subsec. (c) as subsec. (b). Former subsec. (b) required the ACDA Director to provide relevant information to USIA.

⁵⁷Sec. 1223(9)(D)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “Director” and inserted in lieu thereof “Secretary of State”.

⁵⁸Sec. 1223(9)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out para. (1) and redesignated paras. (2) and (3) as paras. (1) and (2). Former para. (1) pertained to international negotiations and the ACDA Director’s authority.

⁵⁹Formerly at 22 U.S.C. 2575. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Had provided for coordination among Executive agencies on all significant aspects of arms control, nonproliferation, disarmament and related matters.

⁶⁰Sec. 719(e)(1) of Public Law 103-236 (108 Stat. 501) restated the section heading, which formerly read “ARMS CONTROL IMPACT INFORMATION AND ANALYSIS”.

⁶¹22 U.S.C. 2576. Redesignated from sec. 36 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). This section was added by sec. 146 of Public Law 94-141, and amended by sec. 1(1) and sec. 1(2) of Public Law 95-338. Subsecs. (b) and (c) of this section, relating to arms control impact information and analysis, were repealed by sec. 704(1) of Public Law 103-236 (108 Stat. 492). Sec. 719(e)(2) of that Act struck out subsec. designation “(a)”.

⁶²Sec. 1223(10)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “Director” and inserted in lieu thereof “Secretary of State”.

tion,⁶³ and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

(A) an estimated total program cost in excess of \$250,000,000, or

(B) an estimated annual program cost in excess of \$50,000,000, or

(3) any other program involving technology with potential military application or weapons systems⁶⁴ which such Government agency or the Secretary of State⁶² believes may have a significant impact on arms control, nonproliferation,⁶³ and disarmament policy or negotiations,

shall, on a continuing basis, provide the Secretary of State⁶² with full and timely access to detailed information⁶⁵ with respect to the nature, scope, and purpose of such proposal.

VERIFICATION OF COMPLIANCE

SEC. 306.⁶⁶ (a) IN GENERAL.—In order to ensure that arms control, nonproliferation, and disarmament agreements can be verified,⁶⁷ the Secretary of State⁶⁸ shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the Secretary of State⁶⁸ as to the degree to which the components of such agreement can be verified;

⁶³Sec. 719(e)(3) of Public Law 103-236 (108 Stat. 501) inserted “, nonproliferation,” after “arms control”.

⁶⁴Sec. 1(l) of Public Law 95-338 struck out the words “weapons systems or technology” and inserted “technology with potential military application or weapons systems”. Senate Report No. 95-843, May 15, 1978, states at page 3 that this change was made “so that there would be no question that technology with potential military application, rather than, simply, weapons technology, could be reviewed and reported upon under the legislation.”

⁶⁵Sec. 1223(10)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “, in accordance with the procedures established pursuant to section 35 of this Act,” at this point.

⁶⁶22 U.S.C. 2577. Redesignated from sec. 37 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). This section originally was added by sec. 4 of Public Law 95-108. Sec. 712 of Public Law 103-236 (108 Stat. 495) restated the section and its heading, and amended it by adding para. (d) and the provisions relating to nonproliferation. Subsec. (d), pertaining to international participation and negotiations, was struck out by sec. 1223(11)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770).

⁶⁷Sec. 1115(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “adequately” preceding “verified”.

⁶⁸Sec. 1223(11)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “Director” or “Agency” and inserted in lieu thereof “Secretary of State” or “Department of State”, respectively, throughout the section.

(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

(3) the amount and percentage of research funds expended by the Department of State⁶⁸ for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

(b)⁶⁹ ASSESSMENTS UPON REQUEST.—Upon the request of the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, in case of an arms control, nonproliferation, or disarmament proposal presented to a foreign country, the Secretary of State shall submit a report to the Committee on the degree to which elements of the proposal are capable of being verified.

(c)⁶⁹ STANDARD FOR VERIFICATION OF COMPLIANCE.—In making determinations under paragraphs (1) and (2) of subsection (a), the Secretary of State⁶⁸ shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(d)⁶⁹ RULE OF CONSTRUCTION.—Except as otherwise provided for by law, nothing in this section may be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

NEGOTIATING RECORDS

SEC. 307.⁷⁰ (a) PREPARATION OF RECORDS.—The Secretary of State⁷¹ shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United

⁶⁹Sec. 1115(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), redesignated subsecs. (b) and (c) as subsecs. (c) and (d), and added a new subsec. (b). The amendment also stated a redesignation of subsec. (d) as subsec. (e); this subsection was struck out by the amendments executed by the Foreign Affairs Agencies Consolidation Act of 1998.

⁷⁰22 U.S.C. 2578. Redesignated from sec. 38 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). Added by sec. 713(a) of Public Law 103-236 (108 Stat. 496).

Sec. 713(b) of that Act required the following:

“(b) REPORT REQUIRED.—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.”

Previously, sec. 38 had required that the President submit an annual report to Congress on the activities of the Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. That sec. 38, originally added by sec. 3(b) of Public Law 100-213, and amended by sec. 401(a) of Public Law 103-199, was repealed by sec. 704(2) of Public Law 103-236 (108 Stat. 492).

Sec. 1223(12)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out subsec. (c), relating to international negotiations.

⁷¹Sec. 1223(12)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “Director” and inserted in lieu thereof “Secretary of State” throughout the section.

States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

(b) NEGOTIATING AND IMPLEMENTATION RECORDS.—In particular, the Secretary of State⁷¹ shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES

SEC. 308.⁷² Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control, nonproliferation,⁷³ and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

(1) a comprehensive list of studies relating to arms control, nonproliferation,⁷³ and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.

TITLE IV—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 401.⁷⁴ In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act⁷⁵ is authorized to—

(a) utilize or employ the services, personnel, equipment, or facilities of any other Government agency, with the consent of the agency concerned, to perform such functions on behalf of the Department of State⁷⁶ as may appear desirable.⁷⁷ Any Government agen-

⁷² 22 U.S.C. 2579. Redesignated from sec. 39 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772). This section was added by sec. 4 of Public Law 100-213.

⁷³ Sec. 719(f) of Public Law 103-236 (108 Stat. 502) inserted “, nonproliferation,” after “arms control”.

⁷⁴ 22 U.S.C. 2581. Redesignated from sec. 41 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

⁷⁵ Sec. 1223(13)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “In the performance of his functions, the Director” and inserted in lieu thereof “In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act”.

⁷⁶ Sec. 1223(13)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out references through the section to the Director or the Agency and replaced such references with an appropriate reference to the Secretary of State or the Department of State.

⁷⁷ Sec. 1223(13)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “It is the intent of this

cy is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Secretary of State,⁷⁶ without reimbursement, supplies and equipment other than administrative supplies or equipment. Transfer or receipt of excess property shall be in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended;⁷⁸

(b)^{79, 80} appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Secretary of State⁷⁶ ensures that—

(1) any employee who is appointed under this subsection⁸¹ is not paid at a rate—

(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

(2) the number of employees appointed under this subsection⁸² shall not exceed 10 percent of the Department of State's⁷⁶ full-time-equivalent positions allocated to carry out the purposes of this Act.⁸³

(c) enter into agreements with other Government agencies, including the military departments through the Secretary of Defense, under which officers or employees of such agencies may be detailed to the Department of State⁷⁶ for the performance of service pursuant to this Act without prejudice to the status or advancement of such officers or employees within their own agencies;

(d) procure services of experts and consultants or organizations thereof, including stenographic reporting services, as authorized by section 3109 of title 5 of the United States Code,⁸⁴ and to pay in connection therewith travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from

section that the Director rely upon the Department of State for general administrative services in the United States and abroad to the extent agreed upon between the Secretary of State and the Director.”

⁷⁸ See e.g., 40 U.S.C. 483(a) and 484.

⁷⁹ Sec. 5(a) of Public Law 95-108 amended and restated subsec. (b) which formerly read as follows: “(b) appoint officers and employees, including attorneys, for the Agency in accordance with the civil service laws and fix their compensation in accordance with the Classification Act of 1949, as amended.”

⁸⁰ Sec. 1223(13)(D)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities.”

⁸¹ Sec. 1223(13)(D)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-770) struck out “exception” and inserted in lieu thereof “subsection”.

⁸² Sec. 1223(13)(D)(iii)(I) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out “exception” and inserted in lieu thereof “subsection”.

⁸³ Sec. 1223(13)(D)(iii)(II) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out “ceiling” and inserted in lieu thereof “positions allocated to carry out the purposes of this Act”.

⁸⁴ Par. (a)(1) of Public Law 93-332 struck out the words “at rates not exceeding \$100 per diem for individuals” previously found here and also substituted the reference to “section 3109 of title 5 of the United States Code” for an obsolete reference to “section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)”.

their homes or regular places of business, as authorized by section 5703 of such title:⁸⁵ *Provided*, That no such individual shall be employed for more than 130 days⁸⁶ in any fiscal year unless the President certifies that employment of such individual in excess of such number of days is necessary in the national interest:⁸⁷ *And provided further*, That such contracts may be renewed annually;

(e) employ individuals of outstanding ability without compensation in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160), and regulations issued thereunder;

(f)⁸⁸ establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section;

(g)⁸⁹ administer oaths and take sworn statements in the course of an investigation made pursuant to the Secretary of State's⁷⁶ responsibilities under this Act;

(h)⁸⁹ delegate, as appropriate, to the Under Secretary for Arms Control and International Security⁹⁰ or other officers of the Department of State, any authority conferred upon the Secretary of State⁷⁶ by the provisions of this Act; and

(i)⁸⁹ make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Secretary of State⁷⁶ by the provisions of this Act.

SEC. 42.⁹¹ [Repealed—1998]

⁸⁵Par. (a)(2) of Public Law 93-332 substituted the reference to "section 5703 of such title" for an obsolete reference to "section 5 of said Act, as amended (5 U.S.C. 73b-2)".

⁸⁶Par. (a)(3) of Public Law 93-332 struck out "one hundred days" and substituted "130 days".

⁸⁷In a memorandum for the Director of the United States Arms Control and Disarmament Agency, the President delegated to such Director the authority set forth in this subsection to certify that the employment of persons in excess of the number of days set forth in this subsection is necessary in the national interest (Memorandum of August 18, 1990; 55 F.R. 37693).

⁸⁸Sec. 1223(13)(G) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) amended and restated subsec. (f), which previously read, as amended, as follows:

"(f) establish advisory boards to advise with and make recommendations to the Director on United States arms control and disarmament policy and activities. The members of such boards may receive the compensation and reimbursement for expenses specified for consultants by section 41(d) of this Act;"

⁸⁹Public Law 102-228 added a new subsec. (h).

Sec. 1223(13)(E) and (F) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out subsec. (g) (originally added by sec. 5(b) of Public Law 95-108, pertaining to payment for work performed, and related travel, in the form of advisory services), and redesignated subsequent subsections.

⁹⁰Sec. 1223(13)(H) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out "Deputy Director" and inserted in lieu thereof "Under Secretary for Arms Control and International Security".

⁹¹Formerly at 22 U.S.C. 2582. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to Foreign Service personnel.

SEC. 43.⁹² [Repealed—1998]

DUAL COMPENSATION LAWS

SEC. 402.⁹³ Members of advisory boards and consultants may serve as such without regard to any⁹⁴ Federal law limiting the re-employment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 201 of the Dual Compensation Act.⁹⁵ This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.⁹⁶

SEC. 45.⁹⁷ [Repealed—1998]

SEC. 46.⁹⁸ [Repealed—1998]

SEC. 47.⁹⁹ [Repealed—1998]

SEC. 48.¹⁰⁰ [Repealed—1998]

SEC. 49.¹⁰¹ [Repealed—1998]

SEC. 50.¹⁰² [Repealed—1998]

⁹² Formerly at 22 U.S.C. 2583. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to contracts.

⁹³ 22 U.S.C. 2584. Redesignated from sec. 44 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

Sec. 1223(14)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out "CONFLICT-OF-INTEREST AND" preceding "DUAL COMPENSATION LAWS" in the section catchline.

⁹⁴ Sec. 1223(14)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out "The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), or any other" and inserted in lieu thereof "Members of advisory boards and consultants may serve as such without regard to any".

⁹⁵ Now codified as 5 U.S.C. 5532. Sec. 401(d)(2) of Public Law 88-448, the Dual Compensation Act, added the last nine words to this sentence.

⁹⁶ Sec. 1223(14)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) added "This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament."

⁹⁷ Formerly at 22 U.S.C. 2585. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to security requirements.

⁹⁸ Formerly at 22 U.S.C. 2586. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the Comptroller General audit.

⁹⁹ Formerly at 22 U.S.C. 2587. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the consolidation and transfer of activities to ACDA.

¹⁰⁰ Formerly at 22 U.S.C. 2588. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the use of authorized and appropriated funds.

¹⁰¹ Formerly at 22 U.S.C. 2591. Originally added as sec. 51 by sec. 4 of Public Law 98-202. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to specialists fluent in Russian or other languages of the independent states of the former Soviet Union.

¹⁰² Formerly at 22 U.S.C. 2593. Originally added as sec. 53 by sec. 6(a) of Public Law 100-213. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the appointment and duties of the ACDA Inspector General.

ANNUAL REPORT TO CONGRESS

SEC. 403.¹⁰³ (a) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with¹⁰⁴ the Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff,¹⁰⁵ on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

- (1) a detailed statement concerning the arms control, nonproliferation,¹⁰⁶ and disarmament objectives of the executive branch of Government for the forthcoming year;
- (2)¹⁰⁷ a detailed assessment of the status of any ongoing arms control, nonproliferation,¹⁰⁶ or disarmament negotiations,

¹⁰³ 22 U.S.C. 2593a. Redesignated from sec. 51 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

Added by sec. 717(a)(3) of Public Law 103-236 (108 Stat. 498) as sec. 51. The former sec. 51, relating to foreign language specialists, was redesignated as sec. 49 by sec. 717(a)(2) of that Act. Sec. 717(a)(1) of the Act struck out the former sec. 50, which required an annual report concerning the activities of ACDA, and sec. 704(3) repealed sec. 52, which was headed "REPORTS ON ADHERENCE TO AND COMPLIANCE WITH AGREEMENTS". The substance of the former sec. 52, which originally was added by sec. 703 of Public Law 99-93 and amended by sec. 5 of Public Law 100-213 and section 401(c) of Public Law 103-199, was incorporated into this new sec. 51.

Sec. 717(b) of that Act further provided:

"(b) REPORT ON REVITALIZATION OF ACDA.—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part."

Sec. 828(b) of that Act further provided:

"(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

"(2) For purposes of this section, the term 'demarche' means any official communication by one government to another, by written or oral means, intended by the originating government to express—

"(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

"(B) a request for the recipient government to counter such action or activity; or

"(C) both the concern and request described in subparagraphs (A) and (B)."

¹⁰⁴ Sec. 1223(15)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out "Director, in consultation with the Secretary of State," and inserted in lieu thereof "Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with".

¹⁰⁵ Sec. 1223(15)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out "the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence" and inserted in lieu thereof "and the Chairman of the Joint Chiefs of Staff".

¹⁰⁶ Sec. 1223(15)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) inserted ", nonproliferation," after "arms control".

¹⁰⁷ Sec. 1223(15)(A)(iv) and (v) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) struck out paras. (2) and (4), and redesignated the remaining paras. (3), (5), (6), and (7) as paras. (2) through (5), respectively. Former paras. (2) and (4) read as follows:

"(2) a detailed statement concerning the nonproliferation objectives of the executive branch of Government for the forthcoming year;"

and

including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

(3)¹⁰⁷ a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken;¹⁰⁸

(4)¹⁰⁷ a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments, including the Missile Technology Control Regime,¹⁰⁹ to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements or commitments,¹¹⁰ and shall include, in the case of each agreement or commitment¹¹¹ about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

(B) an assessment of damage, if any, to the United States security and other interests; and

(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems;¹¹²

(5)¹⁰⁸ a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) by non-nuclear-weapon states (as defined in section 830(5) of that Act) or the acquisi-

¹⁰⁷(4) a detailed assessment of the status of any ongoing nonproliferation negotiations or other activities, including a comprehensive description of the negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;”

¹⁰⁸Sec. 828(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 520): (1) struck out “and” at the end of this para.; (2) struck out a period at the end of the next para. and inserted instead “; and”; and (3) added a new para. (7), redesignated as para. (5).

¹⁰⁹Sec. 1113(a)(1)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted “or commitments, including the Missile Technology Control Regime,” after “agreements”.

¹¹⁰Sec. 1113(a)(1)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted “or commitments” after “agreements”.

¹¹¹Sec. 1113(a)(1)(C) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), inserted “or commitment” after “agreement”.

¹¹²Sec. 1113(a)(1)(D) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536) struck out “and” at the end of subpara. (C).

tion by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act), including—

- (A) a net assessment of the aggregate military significance of all such violations;
 - (B) a statement of the compliance policy of the United States with respect to violations of those commitments; and
 - (C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments; and ¹¹³
- (6) ¹¹³ a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements with the United States.

(b) CLASSIFICATION OF THE REPORT.—The report required by this section shall be submitted in unclassified form, with classified annexes, as appropriate. The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.¹¹⁴

(c) ¹¹⁵ REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under this section reports that any designated nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.

(d) ¹¹⁶ Each report required by this section shall include a discussion of each significant issue described in subsection (a)(6) that was contained in a previous report issued under this section during 1995, or after December 31, 1995, until the question or concern has been resolved and such resolution has been reported in detail to the appropriate committees of Congress (as defined in section 1102(1) of the Arms Control, Non-Proliferation, and Security Assistance Act of 1999).

¹¹³Sec. 1113(a)(2) and (3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out a period at the end of para. (5); inserted “; and” in its place; and added a new para. (6).

¹¹⁴Sec. 1223(15)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-771) added the second sentence to this subsec.

¹¹⁵Sec. 828(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 520), added subsec. (c).

¹¹⁶Sec. 1113(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added subsec. (d).

PUBLIC ANNUAL REPORT ON WORLD MILITARY EXPENDITURES AND
ARMS TRANSFERS

SEC. 404.¹¹⁷ Not later than December 31 of each year, the Secretary of State¹¹⁸ shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms transfers and proliferation trends and initiatives affecting such developments.

SEC. 53.¹¹⁹ [Repealed—1998]

SEC. 54.¹²⁰ [Repealed—1998]

TITLE V—ON-SITE INSPECTION ACTIVITIES¹²¹

FINDINGS

SEC. 501.¹²² The Congress finds that—

(1) under this Act, the Department of State¹²³ is charged with the “formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security”;

(2)¹²⁴ the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

(2) as defined in this Act, the terms ‘arms control’ and ‘disarmament’ means ‘the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and

¹¹⁷ 22 U.S.C. 2593b. Redesignated from sec. 52 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

Added by sec. 717(a)(3) of Public Law 103-236 (108 Stat. 498) as sec. 52. The former sec. 52, which was headed “REPORTS ON ADHERENCE TO AN COMPLIANCE WITH AGREEMENTS”, was repealed by sec. 704(3) of that Act. The substance of the former sec. 52 was incorporated in the new sec. 51 added by sec. 717(a)(3) of that Act.

¹¹⁸ Sec. 1223(16) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “Director” and inserted in lieu thereof “Secretary of State”.

¹¹⁹ Formerly at 22 U.S.C. 2593c. Originally added by sec. 718(a) of Public Law 103-236 (108 Stat. 500). Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to the requirement to authorize appropriations. For a comprehensive history of authorization and appropriations levels, see footnotes relating to this section in see *Legislation on Foreign Relations Through 1996*, vol. II.

¹²⁰ Formerly at 22 U.S.C. 2593d. Originally added by sec. 718(a) of Public Law 103-236 (108 Stat. 500). Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to transfer of funds, notification, and reprogramming.

¹²¹ For related legislation on United States program for on-site inspections under arms control agreements, see sec. 1014 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1547).

¹²² 22 U.S.C. 2595. Originally added by sec. 201 of Public Law 101-216. Redesignated from sec. 61 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

¹²³ Sec. 1223(17)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “United States Arms Control and Disarmament Agency” and inserted in lieu thereof “Department of State”.

¹²⁴ Sec. 1223(17)(B) and (C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out para. (2) and redesignated paras. (3) through (7) as paras. (2) through (6). Former para. (2) provided as follows:

armaments of all kinds under international agreement to establish an effective system of international control’;”.

(3)¹²⁴ on-site inspection activities under the INF Treaty include—

(A) inspections in Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany,¹²⁵

(B) escort duties for¹²⁶ teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in Russia,¹²⁷ and

(D) support for the¹²⁸ inspectors at the Portal Monitoring Facility in Utah;

(4)¹²⁹ the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (3),¹³⁰ including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;

(5)¹²⁹ the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

(6)¹²⁹ the senior officials of the On-Site Inspection Agency include representatives from the¹³¹ Department of State.

POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS

SEC. 502.¹³² (a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

¹²⁵Sec. 401(d)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out “the Soviet Union, Czechoslovakia, and the German Democratic Republic”, and inserted in lieu thereof “Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany”.

¹²⁶Sec. 401(d)(2) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out “Soviet” at this point.

¹²⁷Sec. 401(d)(3) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out “the Soviet Union” and inserted in lieu thereof “Russia”.

¹²⁸Sec. 401(d)(4) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out “Soviet” at this point.

¹²⁹Sec. 402(a)(1) of Public Law 102-228 redesignated paragraphs (5) and (6) as (6) and (7), respectively, and added a new paragraph (5). Sec. 1223(17)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) subsequently redesignated paras. (3) through (7) as paras. (2) through (6).

¹³⁰Sec. 1223(17)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “paragraph (4)” and inserted in lieu thereof “paragraph (3)”.

¹³¹Sec. 1223(17)(E) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “United States Arms Control and Disarmament Agency and the” at this point.

¹³²22 U.S.C. 2595a. Originally added by sec. 201 of Public Law 101-216. Redesignated from sec. 62 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

(c)¹³³ **ROLE OF THE SECRETARY OF STATE.**—The Secretary of State¹³³ should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 102(3) and 304(b)¹³⁴ of this Act.

SEC. 63.¹³⁵ [Repealed—1998]

SEC. 503.¹³⁶ REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.

Any¹³⁷ notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on International Relations¹³⁸ of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.

DEFINITIONS

SEC. 504.¹³⁹ As used in this title—

(1) the term “INF Treaty” means the Treaty Between the United States of America¹⁴⁰ and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987);¹⁴¹

(2) the term “OSIA” means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty;¹⁴¹

(3)¹⁴¹ the term “Peaceful Nuclear Explosions Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

¹³³Sec. 1223(18)(A)(i) and (B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) replaced “Director” with “Secretary of State” in the subsec. heading and in the first sentence.

¹³⁴Sec. 1223(18)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “2(d), 22, and 34(c)” and inserted in lieu thereof “102(3) and 304(b)”.

¹³⁵Formerly at 22 U.S.C. 2595b. Originally added by sec. 201 of Public Law 101-216. Repealed by sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-768). Pertained to authorizations of appropriations for on-site inspection.

¹³⁶22 U.S.C. 2595b-1. Sec. 402(b)(2) of Public Law 102-228 added this section as sec. 64. Sec. 1223(19)(A) and (B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) redesignated the sec. as sec. 503, restated the sec. catchline, and struck out subsec. (a), which required the President to file a one-time report on On-Site Inspection Activities. Sec. 1223(21) of that Act also redesignated the section as sec. 503.

¹³⁷Sec. 1223(19)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—” at the beginning of the sec.

¹³⁸Sec. 1223(19)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) struck out “Foreign Affairs” and inserted in lieu thereof “International Relations”.

¹³⁹22 U.S.C. 2595c. This section was added as sec. 64 by sec. 201 of Public Law 101-216. It was redesignated as sec. 65 by sec. 402(b)(1) of Public Law 102-228, and further redesignated from sec. 65 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772).

¹⁴⁰Sec. 1223(20) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-772) inserted “of America” after “United States”.

¹⁴¹Sec. 402(b)(2) of Public Law 102-228 struck out “and” at the end of paragraph (1); struck out the period at the end of paragraph (2) and inserted in lieu thereof a semicolon; and added new paragraphs (3) and (4).

(4)¹⁴¹ the term "Threshold Test Ban Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).

2. Arms Control and Disarmament Authorization—Prior Years

a. Arms Control and Nonproliferation Act of 1999

Partial text of Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, approved November 29, 1999

* * * * *

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001”.

* * * * *

DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS

SEC. 1001.¹ SHORT TITLE.

This division may be cited as the “Arms Control, Nonproliferation, and Security Assistance Act of 1999”.

TITLE XI—ARMS CONTROL AND NONPROLIFERATION

SEC. 1101. SHORT TITLE.

This title may be cited as the “Arms Control and Nonproliferation Act of 1999”.

SEC. 1102.² DEFINITIONS.

In this title:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

(2) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the position of Assistant Secretary of State for Verification and Compliance designated under section 1112.

¹22 U.S.C. 2751 note.
²22 U.S.C. 2652c note.

(3) EXECUTIVE AGENCY.—The term “Executive agency” has the meaning given the term in section 105 of title 5, United States Code.

(4) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(5) START TREATY OR TREATY.—The term “START Treaty” or “Treaty” means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

(6) START II TREATY.—The term “START II Treaty” means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, and related protocols and memorandum of understanding, signed at Moscow on January 3, 1993.

Subtitle A—Arms Control

CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

SEC. 1111. KEY VERIFICATION ASSETS FUND.

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, the Department of Energy, or any agency, entity, or component of the intelligence community, as needed, for retaining, researching, developing, or acquiring technologies or programs relating to the verification of arms control, nonproliferation, and disarmament agreements or commitments.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal years 2000 and 2001, \$5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the “Key Verification Assets Fund”.

SEC. 1112. ASSISTANT SECRETARY OF STATE FOR VERIFICATION AND COMPLIANCE.

(a)³ DESIGNATION OF POSITION.—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

(b) DIRECTIVE GOVERNING THE ASSISTANT SECRETARY OF STATE.—

³ 22 U.S.C. 2652c.

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall issue a directive governing the position of the Assistant Secretary.

(2) ELEMENTS OF THE DIRECTIVE.—The directive issued under paragraph (1) shall set forth, consistent with this section—

(A) the duties of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other officials of the Department of State;

(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

(D) such matters as the Secretary considers appropriate.

(c) DUTIES.—

(1) IN GENERAL.—The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

(2) PARTICIPATION OF THE ASSISTANT SECRETARY.—

(A) PRIMARY ROLE.—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

(B) REQUIREMENT FOR DESIGNATION.—Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

(C) NATIONAL SECURITY LIMITATION.—

(i) WAIVER BY PRESIDENT.—The President may waive the provisions of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(ii) WAIVER BY OTHERS.—With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(iii) TRANSMISSION OF WAIVER TO CONGRESS.—Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

(3) RELATIONSHIP TO THE INTELLIGENCE COMMUNITY.—The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

(4) REPORTING RESPONSIBILITIES.—The Assistant Secretary shall have responsibility within the Department of State for—

(A) all reports required pursuant to section 306 of the Arms Control and Disarmament Act (22 U.S.C. 2577);

(B) so much of the report required under paragraphs (4) through (6) of section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)(4) through (6)) as relates to verification or compliance matters; and

(C) other reports being prepared by the Department of State as of the date of enactment of this Act relating to arms control, nonproliferation, or disarmament verification or compliance matters.

SEC. 1113. ENHANCED ANNUAL (“PELL”) REPORT.

(a) ANNUAL REPORT.—Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended—* * *

(b) ADDITIONAL REQUIREMENT.—Section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a) is amended by adding at the end the following: * * *

SEC. 1114. REPORT ON START AND START II TREATIES MONITORING ISSUES.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a detailed report in classified form. Such report shall include the following:

(1) A comprehensive identification of all monitoring activities associated with the START Treaty and the START II Treaty.

(2) The specific intelligence community assets and capabilities, including analytical capabilities, that the Senate was informed, prior to the Senate giving its advice and consent to ratification of the treaties, would be necessary to accomplish those activities.

(3) An identification of the extent to which those assets and capabilities have, or have not, been attained or retained, and the corresponding effect this has had upon United States monitoring confidence levels.

(4) An assessment of any Russian activities relating to the START Treaty which have had an impact upon the ability of the United States to monitor Russian adherence to the Treaty.

(b) COMPARTMENTED ANNEX.—Exceptionally sensitive, compartmented information in the report required by this section may be provided in a compartmented annex submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1115. STANDARDS FOR VERIFICATION.

(a) VERIFICATION OF COMPLIANCE.—Section 306(a) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)) is amended in the matter preceding paragraph (1) by striking “adequately”.

(b) ASSESSMENTS UPON REQUEST.—Section 306 of the Arms Control and Disarmament Act (22 U.S.C. 2577) is amended—* * *

SEC. 1116.⁴ CONTRIBUTION TO THE ADVANCEMENT OF SEISMOLOGY.

The United States Government shall, to the maximum extent practicable, make available to the public in real time, or as quickly as possible, all raw seismological data provided to the United States Government by any international organization that is directly responsible for seismological monitoring.

SEC. 1117.⁵ PROTECTION OF UNITED STATES COMPANIES.

(a) REIMBURSEMENT.—During the 2-year period beginning on the date of the enactment of this Act, the United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105–277)) shall, upon request of the Director of the Federal Bureau of Investigation, reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau for such period in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed \$2,000,000 for such 2-year period.

(b) REPORT.—Not later than 180 days prior to the expiration of the 2-year period described in subsection (a), the Director of the Federal Bureau of Investigation shall prepare and submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on how activities under section 303(b)(2)(A) of the Chemical Weapons Convention Implementation Act of 1998 will be fully funded and implemented by the Federal Bureau of Investigation notwithstanding the expiration of the 2-year period described in subsection (a).

SEC. 1118.⁶ REQUIREMENT FOR TRANSMITTAL OF SUMMARIES.

Whenever a United States delegation engaging in negotiations on arms control, nonproliferation, or disarmament submits to the Secretary of State a summary of the activities of the delegation or the status of those negotiations, a copy of each such summary shall be further transmitted by the Secretary of State to the Committee on Foreign Relations of the Senate and to the Committee on International Relations of the House of Representatives promptly.

CHAPTER 2—MATTERS RELATING TO THE CONTROL OF BIOLOGICAL WEAPONS⁷

* * * * *

⁴ 42 U.S.C. 7704 note.

⁵ 22 U.S.C. 6723 note.

⁶ 22 U.S.C. 2593a note.

⁷ For Chapter 2, see this section, under “Nonproliferation of Weapons of Mass Destruction”.

**b. Arms Control and Disarmament Agency—Authorization,
Fiscal Year 1999**

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

* * * * *

SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

TITLE XX—GENERAL PROVISIONS

SEC. 2001. SHORT TITLE.

This subdivision may be cited as the “Foreign Relations Author-
ization Act, Fiscal Years 1998 and 1999”.

**SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMIT-
TEES.**

In this subdivision, the term “appropriate congressional commit-
tees” means the Committee on International Relations of the House
of Representatives and the Committee on Foreign Relations of the
Senate.

* * * * *

**TITLE XXVI—UNITED STATES ARMS CONTROL AND
DISARMAMENT AGENCY**

SEC. 2601. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the pur-
poses of the Arms Control and Disarmament Act \$41,500,000 for
the fiscal year 1999.

SEC. 2602. STATUTORY CONSTRUCTION.

Section 303 of the Arms Control and Disarmament Act (22
U.S.C. 2573), as redesignated by section 2223 of this division, is
amended by adding at the end the following new subsection: * * *

* * * * *

c. Arms Control and Nonproliferation Act of 1994

Partial text of part A, title VII, of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 491, approved April 30, 1994

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

SEC. 701. SHORT TITLE; REFERENCES IN PART; TABLE OF CONTENTS.

(a)¹ **SHORT TITLE.**—This part may be cited as the “Arms Control and Nonproliferation Act of 1994”.

(b) **REFERENCES IN PART.**—Except as specifically provided in this part, whenever in this part an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Arms Control and Disarmament Act.²

SEC. 702. CONGRESSIONAL DECLARATIONS; PURPOSE.

(a) **CONGRESSIONAL DECLARATIONS.**—The Congress declares that—

(1) a fundamental goal of the United States, particularly in the wake of the highly turbulent and uncertain international situation fostered by the end of the Cold War, the disintegration of the Soviet Union and the resulting emergence of fifteen new independent states, and the revolutionary changes in Eastern Europe, is to prevent the proliferation of nuclear weapons and their means of delivery and of advanced conventional armaments, to eliminate chemical and biological weapons, and to reduce and limit the large numbers of nuclear weapons in the former Soviet Union, as well as to prevent regional conflicts and conventional arms races; and

(2) an ultimate goal of the United States continues to be a world in which the use of force is subordinated to the rule of law and international change is achieved peacefully without the danger and burden of destabilizing and costly armaments.

(b) **PURPOSE.**—The purpose of this part is—

(1) to strengthen the United States Arms Control and Disarmament Agency; and

(2) to improve congressional oversight of the arms control, nonproliferation, and disarmament activities of the United States Arms Control and Disarmament Agency, and of the Agency’s operating budget.

* * * * *

¹22 U.S.C. 2551 note.

²Amendments to the Arms Control and Disarmament Act (Public Law 87-297) have been incorporated into that Act at the appropriate places.

SEC. 711. REPORT ON MEASURES TO COORDINATE RESEARCH AND DEVELOPMENT.

Not later than December 31, 1994, the President shall submit to the Congress a report prepared by the Director of the United States Arms Control and Disarmament Agency, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, with respect to the procedures established pursuant to section 35 of the Arms Control and Disarmament Act (22 U.S.C. 2575) for the effective coordination of research and development on arms control, nonproliferation, and disarmament among all departments and agencies of the executive branch of Government.

* * * * *

SEC. 713. NEGOTIATING RECORDS.

(a) **IN GENERAL.**—The Arms Control and Disarmament Act is amended by inserting after section 37 the following: * * *

(b) **REPORT REQUIRED.**—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.

SEC. 714. AUTHORITIES WITH RESPECT TO NONPROLIFERATION MATTERS.

(a)³ **AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.**—* * *

(b) **AMENDMENT TO THE NUCLEAR NON-PROLIFERATION ACT.**—Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)) is amended in the second sentence by striking out “, as required,”.

* * * * *

SEC. 717. REPORTS.

(a) **IN GENERAL.**—Title IV of the Arms Control and Disarmament Act is amended—* * *

(b)⁴ **REPORT ON REVITALIZATION OF ACDA.**—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part.

* * * * *

³For text of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

⁴22 U.S.C. 2551 note.

**d. Arms Control and Disarmament Act Authorization for
Fiscal Years 1990 and 1991**

Partial text of Public Law 101-216 [H.R. 1495], 103 Stat. 1853, approved
December 11, 1989

NOTE.—Except for the provisions included below, this Act consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

AN ACT To amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Arms Control and Disarmament Amendments Act of 1989”.

TITLE I—ARMS CONTROL AND DISARMAMENT AGENCY

* * * * *

SEC. 104.² ARMS CONTROL IMPLEMENTATION AND COMPLIANCE RESOLUTION.

The Director for the United States Arms Control and Disarmament Agency should study, and report to the Congress on, the advisability of establishing in the Agency an arms control implementation and compliance resolution bureau, or other organizational unit, that would be responsible for—

- (1) managing the implementation of existing and future arms control agreements;
- (2) coordinating the activities of the Special Verification Commission and the Standing Consultative Commission; and
- (3) preparing comprehensive analyses and policy positions regarding the effective resolution of arms control compliance questions.

SEC. 105.³ ARMS CONTROL VERIFICATION.

(a) ESTABLISHMENT OF WORKING GROUP.—The President should establish a working group—

¹22 U.S.C. 2551 note.

²22 U.S.C. 2565 note.

³22 U.S.C. 2577a.

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

(b) INFORMATION AND DATA BASE.—(1) The Agency shall allocate sufficient resources to develop and maintain a comprehensive information and data base on verification concepts, research, technologies, and systems. The Agency shall collect, maintain, analyze, and disseminate information pertaining to arms control verification and monitoring, including information regarding—

(A) all current United States bilateral and multilateral arms treaties; and

(B) proposed, prospective, and potential bilateral or multilateral arms treaties in the areas of nuclear, conventional, chemical, and space weapons.

(2) The Agency shall seek to improve United States verification and monitoring activities through the monitoring and support of relevant research and analysis.

(3) The Agency shall provide detailed information on the activities pursuant to this section in its annual report to the Congress.

* * * * *

SEC. 106. REPORTING REQUIREMENT ON PROSPECTS FOR CONVERSION OF UNITED STATES DEFENSE INDUSTRIES.

The Director of the United States Arms Control and Disarmament Agency, in consultation with the Secretary of Defense and the Secretary of Commerce, shall study, and (not later than 180 days after the date of enactment of this Act) submit to the Congress a report, on concrete steps which could be taken to improve prospects for conversion of portions of United States defense industries to nondefense-related activities as opportunities are presented through the achievement of successful arms control agreements.

TITLE II—ON-SITE INSPECTION ACTIVITIES ⁴

* * * * *

⁴Title II added a new title V to the Arms Control and Disarmament Act. For related legislation on United States program for on-site inspections under arms control agreements, see also sec. 1014 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1547).

**e. Arms Control and Disarmament Act Authorization for
Fiscal Years 1988 and 1989**

Partial text of Public Law 100-213 [H.R. 2689], 101 Stat. 1444, approved
December 24, 1987

NOTE.—Except for the provisions included below, the Act authorizing appropriations for ACDA for fiscal years 1988 and 1989 consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

AN ACT To amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arms Control and Disarmament Amendments Act of 1987”.

* * * * *

SEC. 3. STANDING CONSULTATIVE COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems as a framework for considering and resolving questions concerning compliance with arms control obligations; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b)¹ * * *

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues. The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on

¹Subsec. (b) amended title III of the Arms Control and Disarmament Act by adding a new sec. 38 requiring the President to submit to Congress an annual report on the activities of the Standing Consultative Commission.

Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

* * * * *

SEC. 6. ACDA INSPECTOR GENERAL

(a)² * * *

(b) SURVEY OF ACDA CLASSIFIED INFORMATION SECURITY.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs³ of the House of Representatives and the Committee on Foreign Relations of the Senate.

²Subsec. (a) amended title IV of the Arms Control and Disarmament Act by adding a new sec. 53 establishing an Office of the Inspector General of the Arms Control and Disarmament Agency.

³Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

**f. Arms Control and Disarmament Act Authorization for
Fiscal Years 1986 and 1987**

Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 444, approved August 16, 1985

NOTE.—Except for the provisions included below, this Act consists of amendments to the Arms Control and Disarmament Act and title V, United States Code. Those amendments have been incorporated at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

SEC. 705. NEW BUILDING IN GENEVA FOR THE USE OF THE UNITED STATES ARMS CONTROL NEGOTIATING TEAMS.

(a) FINDINGS.—The Congress finds that—

(1) the United States is party to vital talks on arms control in Geneva, Switzerland;

(2) these talks include negotiations on strategic nuclear weapons, intermediate range nuclear weapons, space and defense systems, a bilateral United States-Soviet forum, called the Standing Consultative Commission and a multilateral forum, called the Conference on Disarmament;

(3) the United States delegations to these talks occupy buildings and spaces insufficiently secure, modernized, or large enough to permit those delegations to conduct their work efficiently;

(4) the United States delegations to the strategic, intermediate and space and defense talks in particular occupy space in the Botanic Building that is also occupied by offices of numerous other, non-United States organizations, and shares common walls and parking facilities with these delegations;

(5) arms control negotiations require sophisticated security facilities, telecommunications equipment, simultaneous translation capabilities and other specialized services; and

- (6) the Soviet Union, for its part, has made available for its negotiating team a modern, secure, well-equipped building dedicated for the use of its arms control negotiating teams.
- (b) SENSE OF CONGRESS.—It is the sense of the Congress that—
- (1) in order to facilitate the effective work of the United States arms control negotiating teams, and to provide for them a dedicated structure capable of supporting their vital tasks on a permanent basis, the Secretary of State should submit to the Congress a report on the feasibility, cost, location, and requirements of a structure to house the United States arms control negotiating teams in Geneva;
 - (2) this report should be submitted as soon as possible; and
 - (3) this matter should be included in the consideration of the 1985 supplemental appropriation process.

SEC. 706. STUDY OF MEASURES TO ENHANCE CRISIS STABILITY AND CONTROL.

(a) STUDY.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall conduct a detailed and complete study and evaluation of additional measures which both enhance the security of the United States and reduce the likelihood of nuclear weapons use by contributing to crisis stability or crisis control capabilities, including specific consideration of the following measures:

- (1) Increased redundancy of direct communications link circuits, including the creation of new survivable circuits and terminals, located outside the national capital which have access to the command and control system of the country in which they are located.
- (2) Establishment of redundant, survivable direct communications links between and among all nuclear-armed states.
- (3) Conclusion of an agreement creating “non-target” sanctuaries only for certain direct communications link circuits to enhance survivability of communications.
- (4) Creation in advance of standard operating procedures for communicating, and possibly cooperating, with the Soviet Union and other states in the event of nuclear attacks by third parties on either the United States or Soviet Union.
- (5) Addition to the Incidents At Sea agreement of a prohibition on the “locking on” of fire control radars on ships and planes of the other side, an agreement on the separation of naval forces during specified periods of crisis, and other such measures relevant to the Incidents At Sea agreement.
- (6) Placement by the United States and the Soviet Union of unmanned launch sensors in the land-based missile fields of both countries.
- (7) Establishment of anti-submarine operations free zones designed to enhance the security of ballistic missile submarines.
- (8) Installation of permissive action links aboard the ballistic missile submarines of the United States, which might possibly be activated or deactivated at various levels of alert, and encouragement of the Soviet Union to do the same.
- (9) Establishment of training programs for National Command Authority officials to familiarize them with alert proce-

dures, communications capabilities, nuclear weapons release authority procedures, and the crisis control and stability implications thereof.

(10) Include in standard operating procedure the relocation in a crisis of a National Command Authority official outside Washington, D.C. to a secure location with access to the strategic command and control system, and announce the institution of this procedure to relevant foreign governments.

(b) REPORT.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives¹ by January 1, 1986. Such report should be available in both a classified, if necessary, and unclassified format.

SEC 707. POLICY TOWARD BANNING CHEMICAL WEAPONS.

(a) FINDINGS. —The Congress finds that—

(1) chemical weapons are among the most terrible weapons in today's military arsenals;

(2) it is the objective of the United States to eliminate the threat of chemical warfare through a comprehensive and verifiable ban on chemical weapons;

(3) the United States is vigorously pursuing a multilateral agreement to ban chemical weapons;

(4) the negotiation of a verifiable, bilateral agreement between the United States and the Soviet Union would be a significant step toward achieving a worldwide ban on chemical weapons;

(5) bilateral discussions relating to a ban on chemical weapons took place in July and August of 1984 between the United States and Soviet delegations to the Conference on Disarmament; and

(6) such endeavors could serve the security interests of humankind.

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

(1) should be commended for his efforts to negotiate a multilateral agreement banning chemical weapons;

(2) should continue to pursue vigorously such an agreement; and

(3) should seek the continuation and development of bilateral discussions between the United States and the Soviet Union to achieve a comprehensive and verifiable ban on chemical weapons.

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

SEC. 708. POLICY REGARDING A JOINT STUDY BY THE UNITED STATES AND THE SOVIET UNION OF THE CONSEQUENCES OF NUCLEAR WINTER.

It is the sense of the Congress that the President should propose to the Government of the Soviet Union during any arms control talks held with such Government that—

(1) the United States and the Soviet Union should jointly study the atmospheric, climatic, environmental, and biological consequences of nuclear explosions, sometimes known as “nuclear winter”, and the impact that nuclear winter would have on the national security of both nations;

(2) such a joint study should include the sharing and exchange of information and findings on the nuclear winter phenomena and make recommendations on possible joint research projects that would benefit both nations; and

(3) at an appropriate time the other nuclear weapons states (the United Kingdom, France, and the People’s Republic of China) should be involved in the study.

3. Cooperative Threat Reduction

a. Cooperative Threat Reduction, Fiscal Year 2001

Partial text of Public Law 106-398 [National Defense Authorization Act, Fiscal Year 2001; H.R. 5408, enacted by reference in H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. ENACTMENT OF FISCAL YEAR 2001 NATIONAL DEFENSE AUTHORIZATION ACT.

The provisions of H.R. 5408 of the 106th Congress, as introduced on October 6, 2000, are hereby enacted into law.

* * * * *

APPENDIX —H.R. 5408

* * * * *

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

* * * * *

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, \$443,400,000.

(24)–(25) * * *

* * * * *

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Prohibition on use of funds for elimination of conventional weapons.
- Sec. 1304. Limitations on use of funds for fissile material storage facility.
- Sec. 1305. Limitation on use of funds to support warhead dismantlement processing.

- Sec. 1306. Agreement on nuclear weapons storage sites.
- Sec. 1307. Limitation on use of funds for construction of fossil fuel energy plants; report.
- Sec. 1308. Reports on activities and assistance under Cooperative Threat Reduction programs.
- Sec. 1309. Russian chemical weapons elimination.
- Sec. 1310. Limitation on use of funds for elimination of weapons grade plutonium program.
- Sec. 1311. Report on audits of Cooperative Threat Reduction programs.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2001 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 2001 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the \$443,400,000 authorized to be appropriated to the Department of Defense for fiscal year 2001 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

- (1) For strategic offensive arms elimination in Russia, \$177,800,000.
- (2) For strategic nuclear arms elimination in Ukraine, \$29,100,000.
- (3) For activities to support warhead dismantlement processing in Russia, \$9,300,000.
- (4) For weapons transportation security in Russia, \$14,000,000.
- (5) For planning, design, and construction of a storage facility for Russian fissile material, \$57,400,000.
- (6) For weapons storage security in Russia, \$89,700,000.
- (7) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$32,100,000.
- (8) For biological weapons proliferation prevention activities in the former Soviet Union, \$12,000,000.
- (9) For activities designated as Other Assessments/Administrative Support, \$13,000,000.
- (10) For defense and military contacts, \$9,000,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2001 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (10) of subsection (a) until 30 days after the date that the Secretary of Defense submits

to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2001 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2001 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in any of paragraphs (4), (5), (7), (9), or (10) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

SEC. 1303. PROHIBITION ON USE OF FUNDS FOR ELIMINATION OF CONVENTIONAL WEAPONS.

No fiscal year 2001 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any other fiscal year, may be obligated or expended for elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons.

SEC. 1304. LIMITATIONS ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.

(a) LIMITATIONS.—No fiscal year 2001 Cooperative Threat Reduction funds may be used—

(1) for construction of a second wing for the storage facility for Russian fissile material referred to in section 1302(a)(5); or

(2) for design or planning with respect to such facility until 15 days after the date that the Secretary of Defense submits to Congress notification that Russia and the United States have signed a written transparency agreement that provides for verification that material stored at the facility is of weapons origin.

(b) ESTABLISHMENT OF FUNDING CAP FOR FIRST WING OF STORAGE FACILITY.—Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than \$412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5).

SEC. 1305. LIMITATION ON USE OF FUNDS TO SUPPORT WARHEAD DISMANTLEMENT PROCESSING.

No fiscal year 2001 Cooperative Threat Reduction funds may be used for activities to support warhead dismantlement processing in Russia until 15 days after the date that the Secretary of Defense submits to Congress notification that the United States has reached an agreement with Russia, which shall provide for appropriate transparency measures, regarding assistance by the United States with respect to such processing.

SEC. 1306. AGREEMENT ON NUCLEAR WEAPONS STORAGE SITES.

The Secretary of Defense shall seek to enter into an agreement with Russia regarding procedures to allow the United States appropriate access to nuclear weapons storage sites for which assistance under Cooperative Threat Reduction programs is provided.

SEC. 1307. LIMITATION ON USE OF FUNDS FOR CONSTRUCTION OF FOSSIL FUEL ENERGY PLANTS; REPORT.

(a) IN GENERAL.—No fiscal year 2001 Cooperative Threat Reduction funds may be used for the construction of a fossil fuel energy plant intended to provide power to local communities that already receive power from nuclear energy plants that produce plutonium.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing options for assisting Russia in the development of alternative energy sources to the three plutonium production reactors remaining in operation in Russia. The report shall include—

(1) an assessment of the costs of building fossil fuel plants in Russia to replace the existing plutonium production reactors; and

(2) an identification of funding sources, other than Cooperative Threat Reduction funds, that could possibly be used for the construction of such plants in the event that the option to use fossil fuel energy is chosen as part of a plan to shut down Russia's nuclear plutonium production reactors at Seversk and Zelenogorsk.

SEC. 1308. REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) ANNUAL REPORT.—In any year in which the budget of the President under section 1105 of title 31, United States Code, for the fiscal year beginning in such year requests funds for the Department of Defense for assistance or activities under Cooperative Threat Reduction programs with the states of the former Soviet Union, the Secretary of Defense shall submit to Congress a report on activities and assistance during the preceding fiscal year under Cooperative Threat Reduction programs setting forth the matters in subsection (c).

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than the first Monday in February of a year.

(c) MATTERS TO BE INCLUDED.—The report under subsection (a) in a year shall set forth the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of the Cooperative Threat Reduction programs.

(2) A five-year plan setting forth the amount of funds and other resources proposed to be provided by the United States for Cooperative Threat Reduction programs over the term of the plan, including the purpose for which such funds and resources will be used, and to provide guidance for the preparation of annual budget submissions with respect to Cooperative Threat Reduction programs.

(3) A description of the Cooperative Threat Reduction activities carried out during the fiscal year ending in the year preceding the year of the report, including—

(A) the amounts notified, obligated, and expended for such activities and the purposes for which such amounts were notified, obligated, and expended for such fiscal year and cumulatively for Cooperative Threat Reduction programs;

(B) a description of the participation, if any, of each department and agency of the United States Government in such activities;

(C) a description of such activities, including the forms of assistance provided;

(D) a description of the United States private sector participation in the portion of such activities that were supported by the obligation and expenditure of funds for Cooperative Threat Reduction programs; and

(E) such other information as the Secretary of Defense considers appropriate to inform Congress fully of the operation of Cooperative Threat Reduction programs and activities, including with respect to proposed demilitarization or conversion projects, information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

(4) A description of the audits, examinations, and other efforts, such as on-site inspections, conducted by the United States during the fiscal year ending in the year preceding the year of the report to ensure that assistance provided under Cooperative Threat Reduction programs is fully accounted for and that such assistance is being used for its intended purpose, including—

(A) if such assistance consisted of equipment, a description of the current location of such equipment and the current condition of such equipment;

(B) if such assistance consisted of contracts or other services, a description of the status of such contracts or services and the methods used to ensure that such contracts and services are being used for their intended purpose;

(C) a determination whether the assistance described in subparagraphs (A) and (B) has been used for its intended purpose; and

(D) a description of the audits, examinations, and other efforts planned to be carried out during the fiscal year beginning in the year of the report to ensure that Cooperative Threat Reduction assistance provided during such fis-

- cal year is fully accounted for and is used for its intended purpose.
- (5) A current description of the tactical nuclear weapons arsenal of Russia, including—
- (A) an estimate of the current types, numbers, yields, viability, locations, and deployment status of the nuclear warheads in that arsenal;
 - (B) an assessment of the strategic relevance of such warheads;
 - (C) an assessment of the current and projected threat of theft, sale, or unauthorized use of such warheads; and
 - (D) a summary of past, current, and planned United States efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile materials.
- (d) INPUT OF DCI.—The Director of Central Intelligence shall submit to the Secretary of Defense the views of the Director on any matters covered by subsection (c)(5) in a report under subsection (a). Such views shall be included in such report as a classified annex to such report.
- (e) COMPTROLLER GENERAL ASSESSMENT.—Not later than 90 days after the date on which a report is submitted to Congress under subsection (a), the Comptroller General shall submit to Congress a report setting forth the Comptroller General's assessment of the information described in paragraphs (2) and (4) of subsection (c).
- (f) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted in 2001.
- (g) REPEAL OF SUPERSEDED REPORTING REQUIREMENTS.—(1) The following provisions of law are repealed:
- (A) Section 1207 of the Cooperative Threat Reduction Act of 1994 (title XII of Public Law 103-160; 107 Stat. 1782; 22 U.S.C. 5956), relating to semiannual reports on Cooperative Threat Reduction.
 - (B) Section 1203 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2882), relating to a report accounting for United States assistance for Cooperative Threat Reduction.
 - (C) Section 1206 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 22 U.S.C. 5955 note), relating to accounting for United States assistance for Cooperative Threat Reduction.
 - (D) Section 1307 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 795), relating to a limitation on use of funds for Cooperative Threat Reduction pending submittal of a multiyear plan.
- (2) Effective on the date the Secretary of Defense submits to Congress an updated version of the multiyear plan for fiscal year 2001 as described in subsection (h), section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2883; 10 U.S.C. 5952 note), relating to multiyear planning and Allied support for Cooperative Threat Reduction, is repealed.
- (3) Section 1312 of the National Defense Authorization Act for Fiscal Year 2000 (113 Stat. 796; 22 U.S.C. 5955 note), relating to Russian nonstrategic nuclear arms, is amended—

- (A) by striking “(a) SENSE OF CONGRESS.—”; and
- (B) by striking subsections (b) and (c).

(h) **LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF MULTIYEAR PLAN.**—Not more than 10 percent of fiscal year 2001 Cooperative Threat Reduction funds may be obligated or expended until the Secretary of Defense submits to Congress an updated version of the multiyear plan for fiscal year 2001 required to be submitted under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 22 U.S.C. 5952 note).

(i) **REPORT ON RUSSIAN NONSTRATEGIC NUCLEAR ARMS.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the following regarding Russia’s arsenal of tactical nuclear warheads:

- (1) Estimates regarding current types, numbers, yields, viability, locations, and deployment status of the warheads.
- (2) An assessment of the strategic relevance of the warheads.
- (3) An assessment of the current and projected threat of theft, sale, or unauthorized use of the warheads.
- (4) A summary of past, current, and planned United States efforts to work cooperatively with Russia to account for, secure, and reduce Russia’s stockpile of tactical nuclear warheads and associated fissile material.

SEC. 1309. RUSSIAN CHEMICAL WEAPONS ELIMINATION.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the international community should, when practicable, assist Russia in eliminating its chemical weapons stockpile in accordance with Russia’s obligations under the Chemical Weapons Convention, and that the level of such assistance should be based on—

- (1) full and accurate disclosure by Russia of the size of its existing chemical weapons stockpile;
- (2) a demonstrated annual commitment by Russia to allocate at least \$25,000,000 to chemical weapons elimination;
- (3) development by Russia of a practical plan for destroying its stockpile of nerve agents;
- (4) enactment of a law by Russia that provides for the elimination of all nerve agents at a single site; and
- (5) an agreement by Russia to destroy its chemical weapons production facilities at Volgograd and Novocheboksark.

(b) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that identifies—

- (1) the amount spent by Russia for chemical weapons elimination during fiscal year 2000;
- (2) the specific assistance being provided to Russia by the international community for the safe storage and elimination of Russia’s stockpile of nerve agents, including those nerve agents located at the Shchuch’ye depot;
- (3) the countries providing the assistance identified in paragraph (2); and

(4) the value of the assistance that the international community has already provided and has committed to provide in future years for the purpose described in paragraph (2).

(c) CHEMICAL WEAPONS CONVENTION DEFINED.—In this section, the term “Chemical Weapons Convention” means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

SEC. 1310. LIMITATION ON USE OF FUNDS FOR ELIMINATION OF WEAPONS GRADE PLUTONIUM PROGRAM.

Of the amounts authorized to be appropriated by this Act for fiscal year 2001 for the Elimination of Weapons Grade Plutonium Program, not more than 50 percent of such amounts may be obligated or expended for the program in fiscal year 2001 until 30 days after the date on which the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report on an agreement between the United States Government and the Government of the Russian Federation regarding a new option selected for the shut down or conversion of the reactors of the Russian Federation that produce weapons grade plutonium, including—

(1) the new date on which such reactors will cease production of weapons grade plutonium under such agreement by reason of the shut down or conversion of such reactors; and

(2) any cost-sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement.

SEC. 1311. REPORT ON AUDITS OF COOPERATIVE THREAT REDUCTION PROGRAMS.

Not later than March 31, 2001, the Comptroller General shall submit to Congress a report examining the procedures and mechanisms with respect to audits by the Department of Defense of the use of funds for Cooperative Threat Reduction programs. The report shall examine the following:

(1) Whether the audits being conducted by the Department of Defense are producing necessary information regarding whether assistance under such programs, including equipment provided and services furnished, is being used as intended.

(2) Whether the audit procedures of the Department of Defense are adequate, including whether random samplings are used.

* * * * *

b. Cooperative Threat Reduction Appropriations, 2001

Partial text of Public Law 106-259 [H.R. 4576], 114 Stat. 656, approved August 9, 2000

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * *

TITLE II

* * * * *

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, \$443,400,000, to remain available until September 30, 2003: *Provided*, that of the amounts provided under this heading, \$25,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

* * * * *

c. Cooperative Threat Reduction, Fiscal Year 2000

Partial text of Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; amended by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2000”.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE III—OPERATION AND MAINTENANCE

* * * * *

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2000 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1)–(22) * * *
- (23) For Cooperative Threat Reduction programs, \$475,500,000.
- (24)–(25) * * *

* * * * *

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Prohibition on use of funds for specified purposes.
- Sec. 1304. Limitations on use of funds for fissile material storage facility.
- Sec. 1305. Limitation on use of funds for chemical weapons destruction.
- Sec. 1306. Limitation on use of funds until submission of report.
- Sec. 1308. Requirement to submit report.
- Sec. 1309. Report on Expanded Threat Reduction Initiative.

Sec. 1310. Limitation on use of funds until submission of certification.

Sec. 1311. Period covered by annual report on accounting for United States assistance under Cooperative Threat Reduction programs.

Sec. 1312. Russian nonstrategic nuclear arms.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a)¹ SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b)¹ FISCAL YEAR 2000 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 2000 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the \$475,500,000 authorized to be appropriated to the Department of Defense for fiscal year 2000 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$177,300,000.

(2) For strategic nuclear arms elimination in Ukraine, \$41,800,000.

(3) For activities to support warhead dismantlement processing in Russia, \$9,300,000.

(4) For security enhancements at chemical weapons storage sites in Russia, \$20,000,000.

(5) For weapons transportation security in Russia, \$15,200,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, \$64,500,000.

(7) For weapons storage security in Russia, \$99,000,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$32,300,000.

(9) For biological weapons proliferation prevention activities in Russia, \$12,000,000.

(10) For activities designated as Other Assessments/Administrative Support, \$1,800,000.

(11) For defense and military contacts, \$2,300,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits

¹ 22 U.S.C. 5952 note.

to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2000 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2000 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in any of paragraphs (4) through (6), (8), (10), or (11) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

SEC. 1303.¹ PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—No fiscal year 2000 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs after the date of the enactment of this Act, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to the authorization of appropriations in section 301 of this Act, and no funds appropriated to the Department of Defense in any other Act enacted after the date of the enactment of this Act, may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

(c) LIMITATION WITH RESPECT TO CONVENTIONAL WEAPONS.—No fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended for elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons.

SEC. 1304.¹ LIMITATIONS ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.

(a) **LIMITATIONS ON USE OF FISCAL YEAR 2000 FUNDS.**—No fiscal year 2000 Cooperative Threat Reduction funds may be used—

(1) for construction of a second wing for the storage facility for Russian fissile material referred to in section 1302(a)(6); or

(2) for design or planning with respect to such facility until 15 days after the date that the Secretary of Defense submits to Congress notification that Russia and the United States have signed a verifiable written transparency agreement that ensures that material stored at the facility is of weapons origin.

(b) **LIMITATION ON CONSTRUCTION.**—No funds authorized to be appropriated for Cooperative Threat Reduction programs may be used for construction of the storage facility referred to in subsection (a) until the Secretary of Defense submits to Congress the following:

(1) A certification that additional capacity is necessary at such facility for storage of Russian weapons-origin fissile material.

(2) A detailed cost estimate for a second wing for the facility.

(3) A certification that Russia and the United States have signed a verifiable written transparency agreement that ensures that material stored at the facility is of weapons origin.

SEC. 1305.¹ LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION.

No fiscal year 2000 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs after the date of the enactment of this Act, may be obligated or expended for planning, design, or construction of a chemical weapons destruction facility in Russia.

SEC. 1306. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORT.

Not more than 50 percent of the fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended until the Secretary of Defense submits to Congress a report describing—

(1) with respect to each purpose listed in section 1302, whether the Department of Defense is the appropriate executive agency to carry out Cooperative Threat Reduction programs for such purpose, and if so, why; and

(2) for any purpose that the Secretary determines is not appropriately carried out by the Department of Defense, a plan for migrating responsibility for carrying out such purpose to the appropriate agency.

SEC. 1307.² * * * [Repealed—2000]

SEC. 1308. REQUIREMENT TO SUBMIT REPORT.

Not later than December 31, 1999, the Secretary of Defense shall submit to Congress a report including—

²Sec. 1307 limited the use of CTR funds pending submittal of a multiyear plan. Repealed by sec. 1308(g)(1)(D) of Public Law 106-398 (114 Stat. 1654A-343). Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

(1) an explanation of the strategy of the Department of Defense for encouraging States of the former Soviet Union that receive funds through Cooperative Threat Reduction programs to contribute financially to the threat reduction effort;

(2) a prioritization of the projects carried out by the Department of Defense under Cooperative Threat Reduction programs;

(3) an identification of any limitations that the United States has imposed or will seek to impose, either unilaterally or through negotiations with recipient States, on the level of assistance provided by the United States for each of such projects; and

(4) an identification of the amount of international financial assistance provided for Cooperative Threat Reduction programs by other States.

SEC. 1309. REPORT ON EXPANDED THREAT REDUCTION INITIATIVE.

Not later than March 31, 2000, the President shall submit to Congress a report on the Expanded Threat Reduction Initiative. Such report shall include a description of the plans for ensuring effective coordination between executive agencies in carrying out the Expanded Threat Reduction Initiative to minimize duplication of efforts.

SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.

No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 22 U.S.C. 5852).

SEC. 1311. PERIOD COVERED BY ANNUAL REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1206(a)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 471; 22 U.S.C. 5955 note) is amended to read as follows:

“(2) The report shall be submitted under this section not later than January 31 of each year and shall cover the fiscal year ending in the preceding calendar year. No report is required under this section after the completion of the Cooperative Threat Reduction programs.”

SEC. 1312.³ RUSSIAN NONSTRATEGIC NUCLEAR ARMS.

It⁴ is the sense of Congress that—

³ 22 U.S.C. 5955 note.

(1) it is in the interest of Russia to fully implement the Presidential Nuclear Initiatives announced in 1991 and 1992 by then-President of the Soviet Union Gorbachev and then-President of Russia Yeltsin;

(2) the President of the United States should call on Russia to match the unilateral reductions in the United States inventory of tactical nuclear weapons, which have reduced the inventory by nearly 90 percent; and

(3) if the re-certification under section 1310 is made, the President should emphasize the continued interest of the United States in working cooperatively with Russia to reduce the dangers associated with Russia's tactical nuclear arsenal.

* * * * *

⁴Sec. 1308(g)(3) of Public Law 106-398 (114 Stat. 1654A-343) struck out "(a) SENSE OF CONGRESS.—" and further struck out subsec. (b) and (c), which had required inclusion of information on Russia's arsenal of tactical nuclear warheads and related details in the CTR annual report.

d. Cooperative Threat Reduction, Fiscal Year 1999

Partial text of Public Law 105-261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Strom Thurmond National Defense Authorization Act for Fiscal Year 1999”.

(b) FINDINGS.—* * *

* * * * *

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, \$440,400,000.

(24) * * *

* * * * *

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Prohibition on use of funds for specified purposes.
- Sec. 1304. Limitation on use of funds for chemical weapons destruction activities in Russia.
- Sec. 1305. Limitation on use of funds for biological weapons proliferation prevention activities in Russia.
- Sec. 1306. Cooperative counter-proliferation program.
- Sec. 1307. Requirement to submit summary of amounts requested by project category.
- Sec. 1308. Report on biological weapons programs in Russia.

Sec. 1309. Report on individuals with expertise in former Soviet weapons of mass destruction programs.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a)¹ SPECIFICATION OF CTR PROGRAMS.—(1) For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note) (as amended by paragraph (2)).

(2) Section 1501(b)(3) of such Act is amended by inserting “materials,” after “components.”

(b) FISCAL YEAR 1999 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 1999 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the amounts authorized to be appropriated to the Department of Defense for fiscal year 1999 in section 301(23), \$440,400,000 shall be available to carry out Cooperative Threat Reduction programs, of which not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$142,400,000.

(2) For strategic nuclear arms elimination in Ukraine, \$47,500,000.

(3) For activities to support warhead dismantlement processing in Russia, \$9,400,000.

(4) For activities associated with chemical weapons destruction in Russia, \$88,400,000.

(5) For weapons transportation security in Russia, \$10,300,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, \$60,900,000.

(7) For weapons storage security in Russia, \$41,700,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$29,800,000.

(9) For biological weapons proliferation prevention activities in Russia, \$2,000,000.

(10) For activities designated as Other Assessments/Administrative Support, \$8,000,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the

¹ 22 U.S.C. 5952 note.

paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (10) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

SEC. 1303. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) **IN GENERAL.**—No fiscal year 1999 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) **LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.**—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

SEC. 1304.¹ LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION ACTIVITIES IN RUSSIA.

(a) **LIMITATION.**—Subject to the limitation in section 1405(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1961), no funds authorized to be appropriated for Cooperative Threat Reduction programs under this Act or any other Act may be obligated or expended for chemical weapons destruction activities in Russia (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification described in subsection (b).

(b) **PRESIDENTIAL CERTIFICATION.**—A certification under this subsection is either of the following certifications by the President:

(1) A certification that—

(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

(2)² A certification that the national security interests of the United States could be undermined by a policy of the United States not to carry out chemical weapons destruction activities under Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this Act or any other Act for fiscal year 1999.

(c) DEFINITIONS.—In this section:

(1) The term “Bilateral Destruction Agreement” means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Non-production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons signed on June 1, 1990.

(2) The term “Wyoming Memorandum of Understanding” means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

SEC. 1305. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL WEAPONS PROLIFERATION PREVENTION ACTIVITIES IN RUSSIA.

No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for biological weapons proliferation prevention activities in Russia until 15 days after the date on which the Secretary submits to the congressional defense committees a report on—

(1) whether Cooperative Threat Reduction funds provided for cooperative research activities at biological research institutes in Russia have been used—

(A) to support activities to develop new strains of anthrax; or

(B) for any purpose inconsistent with the objectives of providing such funds; and

(2) the new strains of anthrax alleged to have been developed at a biological research institute in Russia and any efforts by the United States to examine such strains.

²In a memorandum of July 16, 1999 (64 F.R. 40503), the President delegated the authority in this section to the Secretary of Defense, further stating that such authority may be redelegated not lower than the Under Secretary level.

SEC. 1306. COOPERATIVE COUNTER PROLIFERATION PROGRAM.

(a) IN GENERAL.—Of the amount authorized to be appropriated in section 1302 (other than the amounts authorized to be appropriated in subsections (a)(1) and (a)(2) of that section) and subject to the limitations in that section and subsection (b), the Secretary of Defense may provide a country of the former Soviet Union with emergency assistance for removing or obtaining from that country—

- (1) weapons of mass destruction; or
- (2) materials, equipment, or technology related to the development or delivery of weapons of mass destruction.

(b) CERTIFICATION REQUIRED.—(1) The Secretary may not provide assistance under subsection (a) until 15 days after the date that the Secretary submits to the congressional defense committees a certification in writing that the weapons, materials, equipment, or technology described in that subsection meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant near-term threat to the national security interests of the United States or would significantly advance a foreign country's weapon program that threatens the national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The 15-day notice requirement in paragraph (1) may be waived if the Secretary determines that compliance with the requirement would compromise the national security interests of the United States. In such case, the Secretary shall promptly notify the congressional defense committees of the circumstances regarding such determination in advance of providing assistance under subsection (a) and shall submit the certification required not later than 30 days after providing such assistance.

(c) CONTENT OF CERTIFICATIONS.—Each certification required under subsection (b) shall contain information on the following with respect to the assistance being provided:

(1) The specific assistance provided and the purposes for which the assistance is being provided.

(2) The sources of funds for the assistance.

(3) Whether any assistance is being provided by any other Federal department or agency.

(4) The options considered and rejected for preventing the transfer of the weapons, materials, equipment, or technology, as described in subsection (b)(1)(C).

(5) Whether funding was requested by the Secretary from other Federal departments or agencies.

(6) Any additional information that the Secretary determines is relevant to the assistance being provided.

(d) ADDITIONAL SOURCES OF FUNDING.—The Secretary may request assistance and accept funds from other Federal departments or agencies in carrying out this section.

(e) DEFINITIONS.—In this section:

(1) The term “restricted foreign state or entity”, with respect to weapons, materials, equipment, or technology covered by a certification or notification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the United States, its allies, or interests, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term “weapons of mass destruction” has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 50 U.S.C. 2302(1)).

SEC. 1307.¹ REQUIREMENT TO SUBMIT SUMMARY OF AMOUNTS REQUESTED BY PROJECT CATEGORY.

(a) SUMMARY REQUIRED.—The Secretary of Defense shall submit to Congress as part of the Secretary’s annual budget request to Congress—

(1) a descriptive summary, with respect to the appropriations requested for Cooperative Threat Reduction programs for the fiscal year after the fiscal year in which the summary is submitted, of the amounts requested for each project category under each Cooperative Threat Reduction program element; and

(2) a descriptive summary, with respect to appropriations for Cooperative Threat Reduction programs for the fiscal year in which the list is submitted and the previous fiscal year, of the amounts obligated or expended, or planned to be obligated or expended, for each project category under each Cooperative Threat Reduction program element.

(b) DESCRIPTION OF PURPOSE AND INTENT.—The descriptive summary required under subsection (a) shall include a narrative description of each program and project category under each Cooperative Threat Reduction program element that explains the purpose and intent of the funds requested.

SEC. 1308. REPORT ON BIOLOGICAL WEAPONS PROGRAMS IN RUSSIA.

(a) REPORT.—Not later than March 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms, containing—

(1) an assessment of the extent of compliance by Russia with international agreements relating to the control of biological weapons; and

(2) a detailed evaluation of the potential political and military costs and benefits of collaborative biological pathogen research efforts by the United States and Russia.

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

(1) An evaluation of the extent of the control and oversight by the Government of Russia over the military and civilian-military biological warfare programs formerly controlled or overseen by states of the former Soviet Union.

(2) The extent and scope of continued biological warfare research, development, testing, and production in Russia, including the sites where such activity is occurring and the types of activity being conducted.

(3) An assessment of compliance by Russia with the terms of the Biological Weapons Convention.

(4) An identification and assessment of the measures taken by Russia to comply with the obligations assumed under the Joint Statement on Biological Weapons, agreed to by the United States, the United Kingdom, and Russia on September 14, 1992.

(5) A description of the extent to which Russia has permitted individuals from the United States or other countries to visit military and nonmilitary biological research, development, testing, and production sites in order to resolve ambiguities regarding activities at such sites.

(6) A description of the information provided by Russia about its biological weapons dismantlement efforts to date.

(7) An assessment of the accuracy and comprehensiveness of declarations by Russia regarding its biological weapons activities.

(8) An identification of collaborative biological research projects carried out by the United States and Russia for which Cooperative Threat Reduction funds have been used.

(9) An evaluation of the political and military utility of prior, existing, and prospective cooperative biological pathogen research programs carried out between the United States and Russia, and an assessment of the impact of such programs on increasing Russian military transparency with respect to biological weapons activities.

(10) An assessment of the political and military utility of the long-term collaborative program advocated by the National Academy of Sciences in its October 27, 1997 report, "Controlling Dangerous Pathogens: A Blueprint for U.S.-Russian Cooperation".

SEC. 1309. REPORT ON INDIVIDUALS WITH EXPERTISE IN FORMER SOVIET WEAPONS OF MASS DESTRUCTION PROGRAMS.

Not later than January 31, 1999, the Secretary of Defense, in consultation with the Secretary of State, the Secretary of Energy, and any other appropriate officials, shall submit to the congressional defense committees a report on the number of individuals in the former Soviet Union who have significant expertise in the research, development, production, testing, and operational employment of ballistic missiles and weapons of mass destruction. The report shall contain the following:

(1) A listing of the specific expertise of the individuals, by category and discipline.

(2) An assessment of which categories of expertise would pose the greatest risks to the security of the United States if that expertise were transferred to potentially hostile states.

(3) An estimate, by category, of the number of the individuals in paragraph (1) who are fully or partly employed at the time the report is submitted by the military-industrial complex of the former Soviet Union, the number of such individuals who are fully employed at the time the report is submitted by commercial ventures outside the military-industrial complex of the former Soviet Union, and the number of such individuals who are unemployed and underemployed at the time the report is submitted.

(4) An identification of the nature, scope, and cost of activities conducted by the United States and other countries to assist in the employment in nonproliferation and nonmilitary-related endeavors and enterprises of individuals involved in the weapons complex of the former Soviet Union, and which categories of individuals are being targeted in these efforts.

(5) An assessment of whether the activities identified under paragraph (4) should be reduced, maintained, or expanded.

* * * * *

e. Cooperative Threat Reduction, Fiscal Year 1998

Partial text of Public Law 105-85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1998”.

* * * * *

**DIVISION A—DEPARTMENT OF DEFENSE
AUTHORIZATIONS**

* * * * *

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1998 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs,
\$382,200,000.

(24) * * *

* * * * *

**TITLE XIV—COOPERATIVE THREAT REDUCTION WITH
STATES OF FORMER SOVIET UNION**

- Sec. 1401. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1402. Funding allocations.
- Sec. 1403. Prohibition on use of funds for specified purposes.
- Sec. 1404. Limitation on use of funds for projects related to START II Treaty until submission of certification.
- Sec. 1405. Limitation on use of funds for chemical weapons destruction facility.
- Sec. 1406. Limitation on use of funds for destruction of chemical weapons.
- Sec. 1407. Limitation on use of funds for storage facility for Russian fissile material.
- Sec. 1408. Limitation on use of funds for weapons storage security.

Sec. 1409. Report on issues regarding payment of taxes, duties, and other assessments on assistance provided to Russia under Cooperative Threat Reduction programs.

Sec. 1410. Availability of funds.

SEC. 1401. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 1998 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 1998 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

SEC. 1402. FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the fiscal year 1998 Cooperative Threat Reduction funds, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$77,900,000.

(2) For strategic nuclear arms elimination in Ukraine, \$76,700,000.

(3) For fissile material containers in Russia, \$7,000,000.

(4) For planning and design of a chemical weapons destruction facility in Russia, \$35,400,000.

(5) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, \$20,000,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, \$57,700,000.

(7) For weapons storage security in Russia, \$36,000,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$41,000,000.

(9) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, and Kazakhstan, \$8,000,000.

(10) For military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction and that include the security forces of the independent states of the former Soviet Union other than Russia, Ukraine, Belarus, and Kazakstan, \$2,000,000.

(11) For activities designated as Other Assessments/Administrative Support \$20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (11) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.

SEC. 1403. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—No fiscal year 1998 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

SEC. 1404. LIMITATION ON USE OF FUNDS FOR PROJECTS RELATED TO START II TREATY UNTIL SUBMISSION OF CERTIFICATION.

No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for strategic offensive arms elimination projects in Russia related to the START II Treaty (as defined in section 1302(f)) until 30 days after the date on which the Secretary of Defense submits to Congress a certification in writing that—

- (1) implementation of the projects would benefit the national security interest of the United States; and
- (2) Russia has agreed in an implementing agreement to share the cost for the projects.

SEC. 1405. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

(a) **LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF NOTIFICATIONS TO CONGRESS.**—No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for planning and design of a chemical weapons destruction facility until 15 days after the date that is the later of the following:

- (1) The date on which the Secretary of Defense submits to Congress notification of an agreement between the United States and Russia with respect to such chemical weapons destruction facility that includes—
 - (A) an agreement providing for a limitation on the financial contribution by the United States for the facility;
 - (B) an agreement that the United States will not pay the costs for infrastructure determined by Russia to be necessary to support the facility; and
 - (C) an agreement on the location of the facility.
- (2) The date on which the Secretary of Defense submits to Congress notification that the Government of Russia has formally approved a plan—
 - (A) that allows for the destruction of chemical weapons in Russia; and
 - (B) that commits Russia to pay a portion of the cost for the facility.

(b) **PROHIBITION ON USE OF FUNDS FOR FACILITY CONSTRUCTION.**—No fiscal year 1998 Cooperative Threat Reduction funds authorized to be obligated in section 1402(a)(4) for planning and design of a chemical weapons destruction facility in Russia may be used for construction of such facility.

SEC. 1406. LIMITATION ON USE OF FUNDS FOR DESTRUCTION OF CHEMICAL WEAPONS.

(a) **LIMITATION.**—No funds authorized to be appropriated under this or any other Act for fiscal year 1998 for Cooperative Threat Reduction programs may be obligated or expended for chemical weapons destruction activities (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification under subsection (b).

(b) **PRESIDENTIAL CERTIFICATION.**—A certification under this subsection is either of the following certifications by the President:

- (1) A certification that—

(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

(2) A certification that the national security interests of the United States could be undermined by a United States policy not to carry out chemical weapons destruction activities under the Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this or any other Act for fiscal year 1998.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term “Bilateral Destruction Agreement” means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Non-production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) The term “Wyoming Memorandum of Understanding” means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

SEC. 1407. LIMITATION ON USE OF FUNDS FOR STORAGE FACILITY FOR RUSSIAN FISSILE MATERIAL.

No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for planning, design, or construction of a storage facility for Russian fissile material until 15 days after the date that is the later of the following:

(1) The date on which the Secretary of Defense submits to Congress notification that an implementing agreement between the United States and Russia has been entered into that specifies the total cost to the United States for the facility.

(2) The date on which the Secretary submits to Congress notification that an agreement has been entered into between the United States and Russia incorporating the principle of transparency with respect to the use of the facility.

SEC. 1408. LIMITATION ON USE OF FUNDS FOR WEAPONS STORAGE SECURITY.

No fiscal year 1998 Cooperative Threat Reduction funds intended for weapons storage security activities in Russia may be obligated or expended until—

(1) the Secretary of Defense submits to Congress a report on the status of negotiations between the United States and Rus-

sia on audits and examinations with respect to weapons storage security; and

(2) 15 days have elapsed following the date that the report is submitted.

SEC. 1409. REPORT ON ISSUES REGARDING PAYMENT OF TAXES, DUTIES, AND OTHER ASSESSMENTS ON ASSISTANCE PROVIDED TO RUSSIA UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on issues regarding payment of taxes, duties, and other assessments on assistance provided to Russia under Cooperative Threat Reduction programs. The report shall include the following:

(1) A description of any disputes between the United States and Russia with respect to payment by the United States of taxes, duties and other assessments on assistance provided to Russia under a Cooperative Threat Reduction program, including a description of the nature of each dispute, the amount of payment disputed, whether the dispute was resolved, and if the dispute was resolved, the means by which the dispute was resolved.

(2) A description of the actions taken by the Secretary to prevent disputes in the future between the United States and Russia with respect to payment by the United States of taxes, duties, and other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

(3) A description of any agreement between the United States and Russia with respect to payment by the United States of taxes, duties, or other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

(4) Any proposals of the Secretary for actions that should be taken to prevent disputes between the United States and Russia with respect to payment by the United States of taxes, duties, or other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

SEC. 1410. AVAILABILITY OF FUNDS.

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

* * * * *

f. Cooperative Threat Reduction, Fiscal Year 1997¹

Partial text of Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; amended by Public Law 105-261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1997”.

* * * * *

TITLE III—OPERATION AND MAINTENANCE

* * * * *

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(21) * * *

(22) For Cooperative Threat Reduction programs, \$364,900,000.²

¹ See also the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2714); sec. 1402—Findings (50 U.S.C. 2301 note); sec. 1424—International Border Security (50 U.S.C. 2333); sec. 1431—Coverage of Weapons-Usable Fissile Materials in Cooperative Threat Reduction Programs on Elimination or Transportation of Nuclear Weapons; sec. 1432—Elimination of Plutonium Production (50 U.S.C. 2341); sec. 1452—Transfers of Allocations Among Cooperative Threat Reduction Programs (50 U.S.C. 2362); sec. 1453—Sense of Congress Concerning Assistance to States of Former Soviet Union (50 U.S.C. 2363); sec. 1454—Purchase of Low-Enriched Uranium Derived From Russian Highly-Enriched Uranium (50 U.S.C. 2364); and sec. 1455—Sense of Congress Concerning Purchase, Packaging, and Transportation of Fissile Materials at Risk of Theft (50 U.S.C. 2365).

² Title II of the Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104-208; 110 Stat. 3009), provided the following:

“FORMER SOVIET UNION THREAT REDUCTION

“For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; \$327,900,000, to remain available until expended.”.

(23)–(24) * * *

* * * * *

TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1501. Specification of Cooperative Threat Reduction programs.

Sec. 1502. Fiscal year 1997 funding allocations.

Sec. 1503. Prohibition on use of funds for specified purposes.

Sec. 1504. Limitation on use of funds until specified reports are submitted.

Sec. 1505. Availability of funds.

SEC. 1501.³ SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, materials,⁴ and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

SEC. 1502. FISCAL YEAR 1997 FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For planning and design of a chemical weapons destruction facility in Russia, \$78,500,000.

(2) For elimination of strategic offensive arms in Russia, \$52,000,000.

(3) For strategic nuclear arms elimination in Ukraine, \$47,000,000.

(4) For planning and design of a storage facility for Russian fissile material, \$66,000,000.

(5) For fissile material containers in Russia, \$38,500,000.

(6) For weapons storage security in Russia, \$15,000,000.

(7) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, Belarus, and Kazakhstan, \$10,000,000.

(8) For activities designated as Other Assessments/Administrative Support, \$20,900,000.

³ 50 U.S.C. 2362 note.

⁴ Sec. 1301(a)(2) of Public Law 105-261; 112 Stat. 2161) inserted “materials,” after “components.”

(9) For materials protection, control, and accounting assistance or for destruction of nuclear, radiological, biological, or chemical weapons or related materials at any site within the former Soviet Union, \$10,000,000.

(10) For transfer to the Secretary of Energy to develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$10,000,000.

(11) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, \$15,000,000.

(12) For expanding military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction to include the security forces of the independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia, \$2,000,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1)⁵ If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1503. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs, or appropriated for such programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

⁵Sec. 1402(c) of Public Law 105-85 (111 Stat. 1959) provided the following:

“(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

“(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.”.

- (1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.
- (2) Provision of housing.
- (3) Provision of assistance to promote environmental restoration.
- (4) Provision of assistance to promote job retraining.

(b) **LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.**—None of the funds appropriated to the Department of Defense for fiscal year 1997 may be obligated or expended for defense conversion.

SEC. 1504. LIMITATION ON USE OF FUNDS UNTIL SPECIFIED REPORTS ARE SUBMITTED.

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended until 15 days after the date which is the latest of the following:

- (1) The date on which the President submits to Congress the determinations required under subsection (c) of section 211 of Public Law 102-228 (22 U.S.C. 2551 note) with respect to any certification transmitted to Congress under subsection (b) of that section before the date of the enactment of this Act.
- (2) The date on which the Secretary of Defense submits to Congress the first report under section 1206(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 471).
- (3) The date on which the Secretary of Defense submits to Congress the report for fiscal year 1996 required under section 1205(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2883).

SEC. 1505. AVAILABILITY OF FUNDS.

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

g. Cooperative Threat Reduction, Fiscal Year 1996

Partial text of Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; amended by Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1996”.

* * * * *

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(17) * * *

(18) For Cooperative Threat Reduction programs, \$300,000,000.¹

¹Title II of the Department of Defense Appropriations Act (Public Law 104-61; 109 Stat. 642, 674) provided the following:

“FORMER SOVIET UNION THREAT REDUCTION

“For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; \$300,000,000, to remain available until expended.

* * * * *

“GENERAL PROVISIONS

* * * * *

“SEC. 8114. (a) LIMITATION.—Of the funds available under title II under the heading ‘FORMER SOVIET UNION THREAT REDUCTION’ for dismantlement and destruction of chemical weapons, not

Continued

(19) * * *

* * * * *

**TITLE XII—COOPERATIVE THREAT REDUCTION WITH
STATES OF FORMER SOVIET UNION**

SEC. 1201.² SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) **IN GENERAL.**—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) **SPECIFIED PROGRAMS.**—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons, fissile material suitable for use in nuclear weapons,³ and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

SEC. 1202. FISCAL YEAR 1996 FUNDING ALLOCATIONS.

(a) **IN GENERAL.**—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For elimination of strategic offensive weapons in Russia, Ukraine, Belarus, and Kazakhstan, \$90,000,000.

(2) For weapons security in Russia, \$42,500,000.

(3) For the Defense Enterprise Fund, \$0.

more than \$52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

“(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

“(2) That Russia is in the process of preparing, with the assistance of the United States as necessary, a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

“(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

“(b) **DEFINITIONS.**—In this section:

“(1) The term ‘1989 Wyoming Memorandum of Understanding’ means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

“(2) The term ‘1990 Bilateral Destruction Agreement’ means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.”

²22 U.S.C. 5955 note.

³Sec. 1431 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2726) inserted “, fissile material suitable for use in nuclear weapons,” after “other weapons”.

(4) For nuclear infrastructure elimination in Ukraine, Belarus, and Kazakhstan, \$35,000,000.

(5) For planning and design of a storage facility for Russian fissile material, \$29,000,000.

(6) For planning and design of a chemical weapons destruction facility in Russia, \$73,000,000.

(7) For activities designated as Defense and Military Contacts/General Support/Training in Russia, Ukraine, Belarus, and Kazakhstan, \$10,000,000.

(8) For activities designated as Other Assessments/Support \$20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1)⁴ If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(c) REIMBURSEMENT OF PAY ACCOUNTS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may be transferred to military personnel accounts for reimbursement of those accounts for the amount of pay and allowances paid to reserve component personnel for service while engaged in any activity under a Cooperative Threat Reduction program.

SEC. 1203. PROHIBITION ON USE OF FUNDS FOR PEACEKEEPING EXERCISES AND RELATED ACTIVITIES WITH RUSSIA.

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be ob-

⁴Sec. 1402(c) of Public Law 105-85 (111 Stat. 1959) provided the following:

“(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

“(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.”.

ligated or expended for the purpose of conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

SEC. 1204. REVISION TO AUTHORITY FOR ASSISTANCE FOR WEAPONS DESTRUCTION.

Section 211 of Public Law 102-228 (22 U.S.C. 2551 note) is amended by adding at the end the following new subsection:

“(c) As part of a transmission to Congress under subsection (b) of a certification that a proposed recipient of United States assistance under this title is committed to carrying out the matters specified in each of paragraphs (1) through (6) of that subsection, the President shall include a statement setting forth, in unclassified form (together with a classified annex if necessary), the determination of the President, with respect to each such paragraph, as to whether that proposed recipient is at that time in fact carrying out the matter specified in that paragraph.”

SEC. 1205.⁵ PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

(a) ANNUAL REQUIREMENT.—(1) Not less than 15 days before any obligation of any funds appropriated for any fiscal year for a program specified under section 1201 as a Cooperative Threat Reduction program, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on that proposed obligation for that program for that fiscal year.

(2) The congressional committees referred to in paragraph (1) are the following:

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

(B) The Committee on National Security,⁶ the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE SPECIFIED IN REPORTS.—Each such report shall specify—

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

(2) the amount of the proposed obligation; and

(3) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Defense) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

SEC. 1206.⁷ * * * [Repealed—2000]

SEC. 1207. LIMITATION ON ASSISTANCE TO NUCLEAR WEAPONS SCIENTISTS OF FORMER SOVIET UNION.

Amounts appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs

⁵ 22 U.S.C. 5955 note.

⁶ The House Committee on National Security reverted back to its former name, Committee on Armed Services, in the 106th Congress. No legislation, however, was enacted to universally amend reference to that committee in Public Law, Sec. 1067 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 774) did make such a change in specific pieces of legislation and 10 United States Code.

⁷ Formerly at 22 U.S.C. 5955 note. Required a report on accounting for U.S. assistance. Repealed by sec. 1308(g)(1)(C) of Public Law 106-398 (114 Stat. 1654A-343). Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

may not be obligated for any program established primarily to assist nuclear weapons scientists in states of the former Soviet Union until 30 days after the date on which the Secretary of Defense certifies in writing to Congress that the funds to be obligated will not be used (1) to contribute to the modernization of the strategic nuclear forces of such states, or (2) for research, development, or production of weapons of mass destruction.

SEC. 1208.⁸ LIMITATION RELATING TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.

(a) **LIMITATION.**—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for the purpose stated in section 1202(a)(6), \$60,000,000 may not be obligated or expended until the President submits to Congress either a certification as provided in subsection (b) or a certification as provided in subsection (c).

(b) **CERTIFICATION WITH RESPECT TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.**—A certification under this subsection is a certification by the President of each of the following:

(1) That Russia is in compliance with its obligations under the Biological Weapons Convention.

(2) That Russia has agreed with the United States and the United Kingdom on a common set of procedures to govern visits by officials of the United States and United Kingdom to military biological facilities of Russia, as called for under the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992.

(3) That visits by officials of the United States and United Kingdom to the four declared military biological facilities of Russia have occurred.

(c) **ALTERNATIVE CERTIFICATION.**—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) **USE OF FUNDS UPON ALTERNATIVE CERTIFICATION.**—If the President makes a certification under subsection (c), the \$60,000,000 specified in subsection (a)—

(1) shall not be available for the purpose stated in section 1202(a)(6); and

(2) shall be available for activities in Ukraine, Kazakhstan, and Belarus—

(A) for the elimination of strategic offensive weapons (in addition to the amount specified in section 1202(a)(1)); and

(B) for nuclear infrastructure elimination (in addition to the amount specified in section 1202(a)(4)).

SEC. 1209. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

(a) **LIMITATION.**—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for planning and design of a chemical weapons destruction facility, not more than one-half of

⁸In a memorandum of April 1, 1996, the President delegated to the Secretary of State the authorities and duties vested in the President under this section, to be exercised in consultation with the Secretary of Defense (61 F.R. 26017).

such amount may be obligated or expended until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study to determine the feasibility of an appropriate technology for destruction of chemical weapons of Russia.

(2) That Russia is making reasonable progress, with the assistance of the United States (if necessary), toward the completion of a comprehensive implementation plan for managing and funding the dismantlement and destruction of Russia's chemical weapons stockpile.

(3) That the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term "1989 Wyoming Memorandum of Understanding" means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term "1990 Bilateral Destruction Agreement" means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

* * * * *

h. Cooperative Threat Reduction, Fiscal Year 1995

Partial text of Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663 at 2882, approved October 5, 1994; amended by Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1995”.

* * * * *

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, \$400,000,000.¹

(20) * * *

* * * * *

¹Title II of the Department of Defense Appropriations Act, 1995 (Public Law 103-335; 108 Stat. 2606), provided the following:

“FORMER SOVIET UNION THREAT REDUCTION

“For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for providing incentives for demilitarization; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; for supporting the demilitarization of military technologies and production infrastructure; \$400,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, \$10,000,000 shall be made available only for the continuing study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic and North Pacific regions.”.

**TITLE XII—COOPERATIVE THREAT REDUCTION WITH
STATES OF FORMER SOVIET UNION**

* * * * *

SEC. 1201.² COOPERATIVE THREAT REDUCTION PROGRAMS.

For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 107 Stat. 1778; 22 U.S.C. 5952(b)).

SEC. 1202. EXTENSION OF SEMIANNUAL REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160;³ 107 Stat. 1782) is amended—
* * *

SEC. 1203.⁴ * * * [Repealed—2000]

SEC. 1204. REPORT ON CONTROL AND ACCOUNTABILITY OF MATERIAL RELATING TO WEAPONS OF MASS DESTRUCTION.

The Secretary of Defense shall submit to Congress a report on progress being made in each state of the former Soviet Union that is a recipient of assistance under Cooperative Threat Reduction programs toward the development of an effective system of control and accountability for material related to weapons of mass destruction in that country. Under such a system, officials of the United States and of the recipient country should have an accurate accounting of the weapons of mass destruction in that country and the fissile and chemical materials from those weapons. The report shall be submitted not later than three months after the date of the enactment of this Act.

SEC. 1205.⁵ * * * [Repealed—2000]

SEC. 1206. FUNDING LIMITATIONS ON COOPERATIVE THREAT REDUCTION PROGRAM FOR FISCAL YEAR 1995.

(a) PROGRAM AMOUNTS.—Of the amount authorized to be appropriated in section 301 for Cooperative Threat Reduction programs—

- (1) not more than \$60,000,000 may be obligated for the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities;
- (2) not more than \$200,000,000 may be obligated for Weapons Dismantlement, Destruction, and Denuclearization;
- (3) not more than \$60,000,000 may be obligated for Safety and Security, Transportation, and Storage;

² 22 U.S.C. 5952 note.

³ Originally read “Public Law 103-60”. Corrected to read “Public Law 103-160” by sec. 1504(a)(7)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 513). For amended text, see page 1632.

⁴ Sec. 1203 required a report on accounting for U.S. assistance. Repealed by sec. 1308(g)(1)(B) of Public Law 106-398 (114 Stat. 1654A-343). Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

⁵ Formerly at 22 U.S.C. 5952 note. Pertained to multiyear planning, allied support; required a report on funding to Congress. Repealed by sec. 1308(g)(2) of Public Law 106-398 (114 Stat. 1654), “effective on the date the Secretary of Defense submits to Congress an updated version of the multiyear plans for fiscal year 2001 as described in subsection (h)” of that Act.

(4) not more than \$40,000,000 may be obligated for Non-proliferation;

(5) not more than \$20,000,000 may be obligated for Defense and Military-to-Military Contacts; and

(6) not more than \$20,000,000 may be obligated for other authorized programs and activities.

(b) LIMITED AUTHORITY TO EXCEED INDIVIDUAL LIMITATION AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1207. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

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

(1) The United States has identified nonproliferation of weapons of mass destruction as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention.

(3) In early 1992, Russian President Boris Yeltsin indicated to former United States President George Bush that Russia still had an offensive biological weapons program.

(4) A United States Government report dated January 19, 1993, on arms control noncompliance noted that Russian declarations up to that date had dramatically underestimated the size, scope, and maturity of the former Soviet biological weapons program.

(5) Despite President Yeltsin's decree of April 11, 1993, stating that activities in violation of the Biological Weapons Convention are illegal, questions continue to arise regarding offensive biological weapons research, development, testing, production, and storage in Russia as well as in other countries.

(6) A United States Government report, dated June 23, 1994, states the following: "The United States has determined that the offensive biological warfare program that Russia inherited from the Soviet Union violated the Biological Weapons Conven-

tion through at least March 1992. The Soviet offensive biological weapons program was massive, and included production, weaponization, and stockpiling. The status of the program since that time remains unclear and the U.S. remains concerned about the Russian biological warfare program.”

(7) The Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992, confirmed the commitment of the three governments to full compliance with the Biological Weapons Convention and outlined steps designed to increase confidence in that commitment.

(8) The Presidents of Russia and the United States are scheduled to hold a summit meeting in Washington during the month of September 1994.

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

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons;

(2) the President should keep the Congress fully and currently informed regarding any Russian activities related to offensive biological weapons;

(3) the President should continue to insist that the Russian Government complete the steps noted and agreed to in the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992;

(4) subsequent meetings of representatives of the United States, the United Kingdom, and Russia on biological weapons and the September 1994 summit meeting in Washington provide opportunities for the President to again emphasize the importance of resolving the issues related to compliance with the Biological Weapons Convention;

(5) in assessing the President's fiscal year 1996 budget request for foreign assistance funds for Russia, and for other programs and activities to provide assistance to Russia, including the Cooperative Threat Reduction programs, Congress will consider United States Government assessments of Russia's compliance with its obligations under the Biological Weapons Convention; and

(6) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of, and enhance compliance with, the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c)⁷ PRESIDENTIAL REPORTS.—Not later than February 1, 1995, not later than June 1, 1995, and not later than October 1, 1995, the President shall submit to Congress a report, in classified and unclassified forms, containing an assessment of the extent of compliance of the independent states of the former Soviet Union with

⁷ In a memorandum of February 15, 1995, the President delegated the authority and functions laid out in sec. 1207(c) to the Secretary of State, in consultation with the Secretary of Defense (60 F.R. 10791).

the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(d) CONTENT OF REPORT.—The report shall include the following:

(1) MATTERS RELATED TO COMPLIANCE.—

(A) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(B) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(C) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such states, including the sites and types of activity at those sites.

(D) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, aircraft, and ballistic missiles.

(E) An assessment of measures taken by the Russian Government to complete the steps noted and agreed to in the 1992 Joint Statement on Biological Weapons referred to in subsection (b)(3), including a determination of the extent to which Russia has—

(i) agreed to permit visits to military and non-military biological sites in order to attempt to resolve ambiguities;

(ii) provided information about biological weapons dismantlement accomplished to date, and further clarification of information provided in its United Nations Declarations regarding biological weapons;

(iii) been cooperative in exchanging information on a confidential, reciprocal basis concerning past offensive biological weapons programs not recorded in detail in its declarations to the United Nations;

(iv) cooperated in reviewing potential additional measures to monitor compliance with the Biological Weapons Convention and modalities for testing such measures;

(v) agreed to an examination of the physical infrastructure of its biological facilities to determine whether there is specific equipment or excess capacity inconsistent with their stated purpose;

(vi) helped identify ways to promote cooperation and investment in the conversion of biological weapons facilities; and

(vii) agreed to exchanges of scientists at biological facilities on a long-term basis.

(2) MATTERS RELATED TO UNITED STATES CAPABILITIES.—

(A) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(B) On the basis of the assessment and evaluations referred to in other provisions of the report, recommendations by the Secretary of Defense and Chairman of the

Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) LIMITATION.—Of the amount authorized to be appropriated by section 301 for Cooperative Threat Reduction programs, \$25,000,000 may not be obligated until the President submits to Congress the first report required under subsection (c).

SEC. 1208. COORDINATION OF CERTAIN COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) MILITARY-TO-MILITARY CONTACT PROGRAMS.—(1) None of the funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs may be obligated for activities under a military-to-military contact program until the Secretary of Defense and the Secretary of State submit to Congress a joint report on the coordination of military-to-military contact programs and comparable activities carried out under their respective jurisdictions.

(2) The report shall cover the following programs and activities:

(A) Defense and military-to-military contact programs to be carried out using funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs.

(B) Military-to-military contacts and comparable activities that are authorized by section 168 of title 10, United States Code, as added by section 1316.

(C) Programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(3) The report shall include a discussion of how the programs and activities referred to in paragraph (2) are carried out to maximize—

(A) the effect of such programs and activities in enhancing United States foreign policy objectives; and

(B) cost-efficiency in the conduct of the programs and activities.

(b) REPORT.—Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 107 Stat. 1777; 22 U.S.C. 5956), is amended by adding at the end the following new paragraph: * * *

SEC. 1209. SENSE OF CONGRESS CONCERNING SAFE AND SECURE DISMANTLEMENT OF SOVIET NUCLEAR ARSENAL.

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

(1) It is a pressing national security challenge for the United States to expedite the safe and secure dismantlement of the nuclear arsenal of the former Soviet Union.

(2) In particular, it is essential to expedite the return of strategic nuclear warheads from Ukraine, Belarus, and Kazakhstan and to expedite the safe and secure dismantlement of the nuclear delivery vehicles of Ukraine, Belarus, and Kazakhstan.

(3) Leakage of nuclear materials and technology, and the continuing threat of emigration of scientists and technicians from the former Soviet nuclear weapons complex, pose a grave threat to United States national security and to international stability.

(4) Congress has authorized so-called “Nunn-Lugar” funds to enable the Department of Defense to carry out cooperative ac-

tivities with states of the former Soviet Union to address the threats described in paragraphs (1), (2), and (3).

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense and the Secretary of State should continue to give their serious attention to carrying out a coordinated strategy for addressing the urgent national security issues described in subsection (a);

(2) the United States should expedite the availability and effective application of so-called “Nunn-Lugar” funds;

(3) although activities conducted with those funds should, to the extent feasible, draw upon United States technology and expertise, the United States should work with local contractors in Belarus, Kazakhstan, Russia, and Ukraine when doing so would expedite more effective use of those funds; and

(4) efforts should be made to make the Science and Technology Centers in Moscow and Kiev, designed to slow the emigration of scientists and technicians from the former Soviet weapons complex, fully operational on an expedited basis.

* * * * *

i. Cooperative Threat Reduction Act of 1993

Title XII of Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547 at 1777, approved November 30, 1993; amended by Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; and by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1994 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1)–(20) * * *

(21) For Former Soviet Union Threat Reduction, \$400,000,000.¹

* * * * *

¹Title II of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1426), provided the following:

“FORMER SOVIET UNION THREAT REDUCTION

“For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for providing incentives for demilitarization; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for expansion of military-to-military contacts; for supporting the conversion of military technologies and capabilities into civilian activities; and for retraining military personnel of the former Soviet Union; \$400,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, \$10,000,000 shall be made available only for the continuing study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic and North Pacific region: *Provided further*, That the transfer authority provided in section 9110(a) of the Department of Defense Appropriations Act, 1993, shall continued to be in effect during fiscal year 1994: *Provided further*, That any transfer made under the foregoing proviso in this paragraph shall be subject to the limitations and the reporting requirements stipulated in section 8006 of this Act: *Provided further*, That the Director of Central Intelligence shall report to the President and the Congressional defense, foreign affairs, and intelligence committees on the current status of intercontinental ballistic missile development and production in states eligible for assistance under this heading: *Provided further*, That none of the funds appropriated under this heading may be expended or transferred to an otherwise eligible recipient state if the President concludes, and notifies the Congressional defense, foreign affairs, and intelligence committees in a written report, that the potential recipient is

TITLE XII—COOPERATIVE THREAT REDUCTION WITH
STATES OF FORMER SOVIET UNION

SEC. 1201.² SHORT TITLE.

This title may be cited as the “Cooperative Threat Reduction Act of 1993”.

SEC. 1202.³ FINDINGS ON COOPERATIVE THREAT REDUCTION.

The Congress finds that it is in the national security interest of the United States for the United States to do the following:

(1) Facilitate, on a priority basis, the transportation, storage, safeguarding, and elimination of nuclear and other weapons of the independent states of the former Soviet Union, including—

(A) the safe and secure storage of fissile materials derived from the elimination of nuclear weapons;

(B) the dismantlement of (i) intercontinental ballistic missiles and launchers for such missiles, (ii) submarine-launched ballistic missiles and launchers for such missiles, and (iii) heavy bombers; and

(C) the elimination of chemical, biological and other weapons capabilities.

(2) Facilitate, on a priority basis, the prevention of proliferation of weapons (and components of weapons) of mass destruction and destabilizing conventional weapons of the independent states of the former Soviet Union and the establishment of verifiable safeguards against the proliferation of such weapons and components.

(3) Facilitate, on a priority basis, the prevention of diversion of weapons-related scientific expertise of the independent states of the former Soviet Union to terrorist groups or third world countries.

(4) Support (A) the demilitarization of the defense-related industry and equipment of the independent states of the former Soviet Union, and (B) the conversion of such industry and equipment to civilian purposes and uses.

(5) Expand military-to-military and defense contacts between the United States and the independent states of the former Soviet Union.

SEC. 1203.⁴ AUTHORITY FOR PROGRAMS TO FACILITATE COOPERATIVE THREAT REDUCTION.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President may conduct programs described in subsection (b) to

currently engaged in the production of a new road mobile or fixed-site land based intercontinental ballistic missile armed with multiple nuclear re-entry vehicles.”

²22 U.S.C. 5951 note.

³22 U.S.C. 5951.

⁴22 U.S.C. 5952. See also sec. 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 617).

In a memorandum of January 29, 1994, the President delegated authorities and duties in sections 1203-1207 as follows:

“* * * I hereby delegate:

“1. to the Secretary of State the authority and duty vested in the President under section 1203(d) of the Cooperative Threat Reduction Act of 1993, Title XII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160);

“2. to the Secretary of Defense the authorities and duties vested in the President under sections 1203(a), 1204, 1206, and 1207 of Public Law 103-160.

assist the independent states of the former Soviet Union in the demilitarization of the former Soviet Union. Any such program may be carried out only to the extent that the President determines that the program will directly contribute to the national security interests of the United States.

(b) AUTHORIZED PROGRAMS.—The programs referred to in subsection (a) are the following:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

(5) Programs to facilitate the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities.

(6) Programs to assist in the environmental restoration of former military sites and installations when such restoration is necessary to the demilitarization or conversion programs authorized in paragraph (5).

(7) Programs to provide housing for former military personnel of the former Soviet Union released from military service in connection with the dismantlement of strategic nuclear weapons, when provision of such housing is necessary for dismantlement of strategic nuclear weapons and when no other funds are available for such housing.

(8) Other programs as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 22 U.S.C. 2551 note) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5901 et seq.).

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the private sector of the United States.

“The Secretary of Defense shall not exercise authority delegated by number 2 hereof with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated by number 1 hereof, as applicable, with respect to that former Soviet republic. The Secretary of Defense shall not obligated funds in exercise of authority delegated by number 2 hereof unless the Director of the Office of Management and Budget has made the determination that expenditures are to be counted as discretionary spending in the national defense budget (050), as applicable to the funds to be transferred.” (59 F.R. 5929).

(d)⁵ RESTRICTIONS.—Assistance authorized by subsection (a) may not be provided to any independent state of the former Soviet Union for any year unless the President certifies to Congress for that year that the proposed recipient state is committed to each of the following:

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

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

(3) Foregoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons.

(4) Facilitating United States verification of any weapons destruction carried out under this title, section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 590(b)), or section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 22 U.S.C. 2551 note).

(5) Complying with all relevant arms control agreements.

(6) Observing internationally recognized human rights, including the protection of minorities.

SEC. 1204.⁶ DEMILITARIZATION ENTERPRISE FUND.

(a) DESIGNATION OF FUND.—The President is authorized to designate a Demilitarization Enterprise Fund for the purposes of this section. The President may designate as the Demilitarization Enterprise Fund any organization that satisfies the requirements of subsection (e).

(b) PURPOSE OF FUND.—The purpose of the Demilitarization Enterprise Fund is to receive grants pursuant to this section and to use the grant proceeds to provide financial support under programs described in subsection (b)(5) for demilitarization of industries and conversion of military technologies and capabilities into civilian activities.

(c) GRANT AUTHORITY.—The President may make one or more grants to the Demilitarization Enterprise Fund.

(d) RISK CAPITAL FUNDING OF DEMILITARIZATION.—The Demilitarization Enterprise Fund shall use the proceeds of grants received under this section to provide financial support in accordance with subsection (b) through transactions as follows:

(1) Making loans.

(2) Making grants.

(3) Providing collateral for loan guaranties by the Export-Import Bank of the United States.

⁵Sec. 1310 of Public Law 106-65 (113 Stat. 795) provided the following:

“SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.
“No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 22 U.S.C. 5852).”

⁶22 U.S.C. 5953.

- (4) Taking equity positions.
 - (5) Providing venture capital in joint ventures with United States industry.
 - (6) Providing risk capital through any other form of transaction that the President considers appropriate for supporting programs described in subsection (b)(5).
- (e) **ELIGIBLE ORGANIZATION.**—An organization is eligible for designation as the Demilitarization Enterprise Fund if the organization—
- (1) is a private, nonprofit organization;
 - (2) is governed by a board of directors consisting of private citizens of the United States; and
 - (3) provides assurances acceptable to the President that it will use grants received under this section to provide financial support in accordance with this section.
- (f) **OPERATIONAL PROVISIONS.**—The following provisions of section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101-179; 22 U.S.C. 5421) shall apply with respect to the Demilitarization Enterprise Fund in the same manner as such provisions apply to Enterprise Funds designated pursuant to subsection (d) of such section:
- (1) Subsection (d)(5), relating to the private character of Enterprise Funds.
 - (2) Subsection (h), relating to retention of interest earned in interest bearing accounts.
 - (3) Subsection (i), relating to use of United States private venture capital.
 - (4) Subsection (k), relating to support from Executive agencies.
 - (5) Subsection (l), relating to limitation on payments to Fund personnel.
 - (6) Subsections (m) and (n), relating to audits.
 - (7) Subsection (o), relating to record keeping requirements.
 - (8) Subsection (p), relating to annual reports.

In addition, returns on investments of the Demilitarization Enterprise Fund and other payments to the Fund may be reinvested in projects of the Fund.

(g) **EXPERIENCE OF OTHER ENTERPRISE FUNDS.**—To the maximum extent practicable, the Board of Directors of the Demilitarization Enterprise Fund should adopt for that Fund practices and procedures that have been developed by Enterprise Funds for which funding has been made available pursuant to section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101-179; 22 U.S.C. 5421).

(h) **CONSULTATION REQUIREMENT.**—In the implementation of this section, the Secretary of State and the Administrator of the Agency for International Development shall be consulted to ensure that the Articles of Incorporation of the Fund (including provisions specifying the responsibilities of the Board of Directors of the Fund), the terms of United States Government grant agreements with the Fund, and United States Government oversight of the Fund are, to the maximum extent practicable, consistent with the Articles of Incorporation of, the terms of grant agreements with, and the oversight of the Enterprise Funds established pursuant to section 201

of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) and comparable provisions of law.

(i) INITIAL IMPLEMENTATION.—The Board of Directors of the Demilitarization Enterprise Fund shall publish the first annual report of the Fund not later than January 31, 1995.

(j) TERMINATION OF DESIGNATION.—A designation of an organization as the Demilitarization Enterprise Fund under subsection (a) shall be temporary. When making the designation, the President shall provide for the eventual termination of the designation.

SEC. 1205.⁷ FUNDING FOR FISCAL YEAR 1994.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds authorized to be appropriated under section 301(21) shall be available for cooperative threat reduction with states of the former Soviet Union under this title.

(b) LIMITATIONS.—(1) Not more than \$15,000,000 of the funds referred to in subsection (a) may be made available for programs authorized in subsection (b)(6) of section 1203.

(2) Not more than \$20,000,000 of such funds may be made available for programs authorized in subsection (b)(7) of section 1203.

(3) Not more than \$40,000,000 of such funds may be made available for grants to the Demilitarization Enterprise Fund designated pursuant to section 1204 and for related administrative expenses.

(c) AUTHORIZATION OF EXTENSION OF AVAILABILITY OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the authority to transfer funds of the Department of Defense provided in section 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1928), and in section 108 of Public Law 102-229 (105 Stat. 1708) shall continue to be in effect during fiscal year 1994.

SEC. 1206.⁸ PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

(a) NOTICE OF PROPOSED OBLIGATION.—Not less than 15 days before obligation of any funds for programs under section 1203, the President shall transmit to the appropriate congressional committees as defined in section 1208 a report on the proposed obligation. Each such report shall specify—

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

(2) the amount of the proposed obligation; and

(3) the projected involvement of the departments and agencies of the United States Government and the private sector of the United States.

(b) REPORTS ON DEMILITARIZATION OR CONVERSION PROJECTS.—Any report under subsection (a) that covers proposed demilitarization or conversion projects under paragraph (5) or (6) of section 1203(b) shall contain additional information to assist the Congress in determining the merits of the proposed projects. Such information shall include descriptions of—

(1) the facilities to be demilitarized;

(2) the types of activities conducted at those facilities and of the types of nonmilitary activities planned for those facilities;

⁷ 22 U.S.C. 5954.

⁸ 22 U.S.C. 5955.

(3) the forms of assistance to be provided by the United States Government and by the private sector of the United States;

(4) the extent to which military activities and production capability will consequently be eliminated at those facilities; and

(5) the mechanisms to be established for monitoring progress on those projects.

SEC. 1207.⁹ * * * [Repealed—2000]

SEC. 1208.¹⁰ **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**

In this title, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs¹¹ of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(2) the Committees on Armed Services¹² and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(3) the committee to which the specified activities of section 1203, if the subject of separate legislation, would be referred under the rules of the respective House of Congress.

SEC. 1209.¹³ **AUTHORIZATION FOR ADDITIONAL FISCAL YEAR 1993 ASSISTANCE TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated for fiscal year 1993 for “Operation and Maintenance, Defense Agencies” the additional sum of \$979,000,000, to be available for the purposes of providing assistance to the independent states of the former Soviet Union.

(b) **AUTHORIZATION OF TRANSFER OF FUNDS.**—The Secretary of Defense may, to the extent provided in appropriations Acts, transfer from the account “Operation and Maintenance, Defense Agencies” for fiscal year 1993 a sum not to exceed the amount appropriated pursuant to the authorization in subsection (a) to—

(1) other accounts of the Department of Defense for the purpose of providing assistance to the independent states of the former Soviet Union; or

(2) appropriations available to the Department of State and other agencies of the United States Government for the purpose of providing assistance to the independent states of the

⁹ Formerly at 22 U.S.C. 5956. Required a semiannual report on accounting for U.S. assistance. Repealed by sec. 1308(g)(1)(A) of Public Law 106-398 (114 Stat. 1654A-343). Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

¹⁰ 22 U.S.C. 5957.

¹¹ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹² Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

¹³ 22 U.S.C. 5958.

former Soviet Union for programs that the President determines will increase the national security of the United States.

(c) ADMINISTRATIVE PROVISIONS.—(1) Amounts transferred under subsection (b) shall be available subject to the same terms and conditions as the appropriations to which transferred.

(2) The authority to make transfers pursuant to this section is in addition to any other transfer authority of the Department of Defense.

(d) COORDINATION OF PROGRAMS.—The President shall coordinate the programs described in subsection (b) with those authorized in the other provisions of this title and in the provisions of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511) so as to optimize the contribution such programs make to the national interests of the United States.

**j. Freedom for Russia and Emerging Eurasian Democracies
and Open Markets Support Act of 1992**

FREEDOM Support Act

Partial text of Public Law 102-511 [S. 2532], 106 Stat. 3320, approved October 24, 1992; amended by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

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

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

SECTION 1.¹ SHORT TITLES.

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

* * * * *

**TITLE V—NONPROLIFERATION AND DISARMAMENT
PROGRAMS AND ACTIVITIES**

SEC. 501.² FINDINGS.

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

(1) to facilitate, on a priority basis—

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

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

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

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

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

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

¹22 U.S.C. 5801 note.

²22 U.S.C. 5851.

SEC. 502.³ ELIGIBILITY.

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 503 and 504 only if the President has certified to the Congress,⁴ during that fiscal year, that such independent state is committed to—

- (1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if that independent state has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;
- (2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;
- (3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; and
- (4) facilitating United States verification of any weapons destruction carried out under section 503(a) or 504(a) of this Act or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 22 U.S.C. 2551 note).

SEC. 503.⁵ NONPROLIFERATION AND DISARMAMENT ACTIVITIES IN THE INDEPENDENT STATES.

(a) **AUTHORIZATION.**—The President is authorized⁶ to promote bilateral and multilateral nonproliferation and disarmament activities—

³22 U.S.C. 5852. Sec. 1310 of Public Law 106-65 (113 Stat. 795) provided the following:

“SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.
“No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 22 U.S.C. 5852).”

⁴In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102-484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102-484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: “The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” (58 F.R. 3193; January 8, 1993).

⁵22 U.S.C. 5853.

⁶In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102-484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102-484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: “The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” (58 F.R. 3193; January 8, 1993).

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

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

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

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

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

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

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

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

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

(c) USE OF DEFENSE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102-229 or under the amendments made by section 506(a) of this Act.

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

SEC. 504.⁷ NONPROLIFERATION AND DISARMAMENT FUND.

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

⁷ 22 U.S.C. 5854.

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

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

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

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

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

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

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

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

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

(c) USE OF SECURITY ASSISTANCE FUNDS.—

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

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

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

SEC. 505.⁸ LIMITATIONS ON DEFENSE CONVERSION AUTHORITIES.

Notwithstanding any other provision of law (including any other provision of this Act), funds may not be obligated in any fiscal year for purposes of facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities, as authorized by sections 503(a)(6) and 504(a)(6) or any other provision of law, unless the President has previously obligated in the same fiscal year an amount equal to or greater than that amount of funds for defense conversion and defense transition activities in the United States. For purposes of this section, the term “defense conversion and defense transition activities in the United States” means those United States Government funded programs whose primary purpose is to assist United States private sector defense workers, United States companies that manufacture or otherwise provide defense goods or services, or United States communities adversely affected by reductions in United States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense or through⁹ the Economic Development Administration.

SEC. 506.¹⁰ SOVIET WEAPONS DESTRUCTION.**(a)¹¹ ADDITIONAL FUNDING.—**

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

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

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

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

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

(b)¹¹ TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—

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

(2) in section 109 (105 Stat. 1708)—

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

(B) by striking out “of H.R. 3807”.

(c)¹¹ AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act

⁸ 22 U.S.C. 5855.

⁹ Sec. 405(d)(20) of sec. 101(f) of Public Law 105-277 (112 Stat. 2681-422) struck out “, through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through” and inserted in lieu thereof “or through”.

¹⁰ 22 U.S.C. 5856.

¹¹ Sec. 1421 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565) made amendments identical to those in subsecs. (a) and (b).

of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section. If that Act enacts such amendments, sections 503 and 508 of this Act shall be deemed to apply with respect to the funds made available under such amendments.

SEC. 507.¹² WAIVER OF CERTAIN PROVISIONS.

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

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

(1) this title; and

(2) section 1341 of title 31, United States Code (commonly referred to as the “Anti-Deficiency Act”), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.¹³

SEC. 508.¹⁴ NOTICE AND REPORTS TO CONGRESS.

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

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

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

(b) **SEMIANNUAL REPORT.**—Not later than April 30, 1993, and not later than October 30, 1993, the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the activities carried out under sections 503 and 504

¹²22 U.S.C. 5857.

¹³Public Law 97-258 (96 Stat. 877 at 923), Public Law 93-344 (88 Stat. 297), Public Law 99-177 (99 Stat. 1037), and title XIII of Public Law 101-508 (104 Stat. 1388-573), respectively.

¹⁴22 U.S.C. 5858.

¹⁵In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102-484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102-484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: “The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” (58 F.R. 3193; January 8, 1993).

and the amendments made by section 506(a). Each such report shall set forth, for the preceding 6-month period and cumulatively, the following:

- (1) The amounts expended for such activities and the purposes for which they were expended.
- (2) The source of the funds obligated for such activities, specified by program.
- (3) A description of the participation of all United States Government departments and agencies in such activities.
- (4) A description of the activities carried out and the forms of assistance provided.
- (5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs and activities carried out under sections 503 and 504 and the amendments made by section 506(a).

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

(1) the term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs¹⁶ of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services¹⁷ and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

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

SEC. 509.¹⁸ INTERNATIONAL NONPROLIFERATION INITIATIVE.

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

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

- (1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive ver-

¹⁶Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹⁷Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

¹⁸22 U.S.C. 5859.

ification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.¹⁹

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

SEC. 510.²⁰ REPORT ON SPECIAL NUCLEAR MATERIALS.

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

(1) a cost-benefit analysis comparing (A) the relative merits of the indefinite storage and safeguarding of such materials in the independent states of the former Soviet Union and (B) its

¹⁹Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference to the House Committee on Energy and Commerce shall be treated as referring to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues. Finally, sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

²⁰22 U.S.C. 5860.

acquisition by the United States by purchase, barter, or other means;

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

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

SEC. 511.²¹ RESEARCH AND DEVELOPMENT FOUNDATION.

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

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

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

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

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

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

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

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

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

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and en-

²¹ 22 U.S.C. 5861.

gineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) FUNDING.—

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

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

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

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

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

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

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

* * * * *

k. Former Soviet Union Demilitarization Act of 1992

Partial text of Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; amended by Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; and by Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994

* * * * *

TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1401.¹ SHORT TITLE.

This title may be cited as the “Former Soviet Union Demilitarization Act of 1992”.

Subtitle B—Findings and Program Authority

SEC. 1411.² DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

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

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

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

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

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

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

¹22 U.S.C. 5901 note.

²22 U.S.C. 5901.

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

SEC. 1412.³ AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized,⁴ in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228);

(2) establishing verifiable safeguards against the proliferation of such weapons and their components;

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

(4) facilitating the demilitarization of the defense industries of the former Soviet Union and the conversion of military technologies and capabilities into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists, engineers, and other experts previously involved with nuclear, chemical, and other weapons in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the United States private sector.

³ 22 U.S.C. 5902.

⁴ In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102-484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

(d)⁵ RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

- (1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;
- (2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;
- (3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;
- (4) facilitating United States verification of any weapons destruction carried out under this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228);
- (5) complying with all relevant arms control agreements; and
- (6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

SEC. 1421.^{6,7} ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities

⁵Sec. 1310 of Public Law 106-65 (113 Stat. 795) provided the following:

“SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION. “No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 22 U.S.C. 5852).”

⁶22 U.S.C. 5911.

⁷Sec. 9110 of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1928), provided:

“(TRANSFER OF FUNDS)

“SEC. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to \$400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992: *Provided*, That amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102-229 (105 Stat. 1708).

“(b) Of the funds transferred pursuant to subsection (a):

- “(1) not less than \$10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region;
- “(2) not less than \$25,000,000 shall be available only for Project PEACE;
- “(3) not more than \$50,000,000 may be made available for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992;
- “(4) not more than \$40,000,000 may be made available for demilitarization of defense industries;
- “(5) not more than \$15,000,000 may be made available for military-to-military contacts;
- “(6) not more than \$25,000,000 may be made available for joint research and development programs; and
- “(7) not more than \$10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program.

“(c) The Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 or from balances in working capital funds not to exceed \$15,000,000 to the appropriate accounts within the Department of Defense for the purposes authorized in section 109 of Public Law 102-229.

Continued

specified in section 1412, funds transferred under sections 108 and 109 of Public Law 102-229 (105 Stat. 1708) are authorized to be made available to carry out this title. Of the amount available to carry out this title—

(A) not more than \$40,000,000 may be made available for programs referred to in section 1412(b)(4) relating to demilitarization of defense industries;

(B) not more than \$15,000,000 may be made available for programs referred to in section 1412(b)(6) relating to military-to-military contacts;

(C) not more than \$25,000,000 may be made available for joint research development programs pursuant to section 1441;

(D) not more than \$10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than \$25,000,000 may be made available for Project PEACE; and

(F) not more than \$10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program under chapter 89 of title 10, United States Code, as added by section 1322.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1695) is amended—

* * * 8

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—* * * 9

* * * * *

⁸(d) The authority provided in sections 108 and 109 of Public Law 102-229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

⁹(e) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds available to the Department of Defense for fiscal year 1993, up to \$40,000,000 to be available for international nonproliferation activities authorized in the Weapons of Mass Destruction Control Act of 1992: *Provided*, That such transfer authority shall not be available for payments either to the 'Contributions to International Organizations' account of the Department of State or to activities carried out by the International Atomic Energy Agency which have traditionally been the responsibilities of the Departments of State or Energy: *Provided further*, That up to \$20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(f) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.”.

⁸For text, see page 1657.

⁹For text, see page 1663.

I. Conventional Forces in Europe Treaty Implementation Act of 1991

Partial text of Public Law 102-228 [H.R. 3807], 105 Stat. 1691, approved December 12, 1991; amended by Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and by Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 11245], 110 Stat. 186, approved February 10, 1996

AN ACT To amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “Conventional Forces in Europe Treaty Implementation Act of 1991”.

SEC. 2.² AUTHORITY TO TRANSFER CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS.

The Arms Export Control Act is amended by adding at the end the following: * * *

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201.³ SHORT TITLE.

This title may be cited as the “Soviet Nuclear Threat Reduction Act of 1991”.

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211.³ NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is

¹22 U.S.C. 2751 note.

²Sec. 2 added a new chapter 9 to the Arms Export Control Act (22 U.S.C. 2799). See also *Legislation on Foreign Relations Through 2001*, vol. I-A.

³22 U.S.C. 2551 note.

not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b)⁴ EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

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

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

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

(c)⁵ As part of a transmission to Congress under subsection (b) of a certification that a proposed recipient of United States assistance under this title is committed to carrying out the matters specified in each of paragraphs (1) through (6) of that subsection, the President shall include a statement setting forth, in unclassified form (together with a classified annex if necessary), the determination of the President, with respect to each such paragraph, as to whether that proposed recipient is at that time in fact carrying out the matter specified in that paragraph.

SEC. 212.^{3,6} AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings stated in section 211,

⁴In State Department Public Notice 1603 of April 3, 1992 (57 F.R. 13152; April 15, 1992), the Secretary of State delegated “to the Deputy Secretary of State in his capacity as the Coordinator for U.S. Assistance to the new Independent States the functions vested in the President under section 211(b) of H.R. 3807, as passed by the Senate on November 25, 1991, and referred to in section 108 of the Dire Emergency Supplemental Appropriations * * * (Pub. L. 102-229).”

This authority was delegated earlier to the Secretary of State by the President in a Memorandum of March 20, 1992 (57 F.R. 11554; April 6, 1992).

Section 108 of Public Law 102-229 was subsequently amended to refer to Public Law 102-228.

⁵Sec. 1204 of Public Law 104-106 (110 Stat. 470) added subsec. (c).

⁶In a memorandum for the Secretary of State, the Secretary of Defense and the Director of the Office of Management and Budget, the President delegated “to the Secretary of Defense the authorities and duties vested in the President under sections 212, 221, 231, and 232 of H.R. 3807 as passed the Senate on November 25, 1991, and referred to in section 108 of the Act.”

may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) **TYPE OF PROGRAM.**—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221.^{3,6} ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—

(1) **TRANSFER AUTHORITY.**—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal years 1992 and 1993⁷ for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed \$800,000,000^{8,9} for use in reducing the Soviet military threat under part B.

(2) **LIMITATION.**—Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

- (A) training activities; and
- (B) depot maintenance activities.

The memorandum further provided that the Secretary of Defense shall not exercise such authority until the authority in section 211(b), delegated to the Secretary of State, had been exercised. Furthermore, any obligation of funds on the part of the Secretary of Defense shall require a determination by the Director of OMB, in accordance with sec. 221(e) of H.R. 3807, as passed by the Senate on November 25, 1991 and referred to in section 108 of Public Law 102-229.

Subsequent to these delegations, sec. 108 of Public Law 102-229 was amended to refer, instead, to Public Law 102-228.

⁷Sec. 1421(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), struck out “fiscal year 1992” and inserted in lieu thereof “fiscal years 1992 and 1993”.

⁸Sec. 1421(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), struck out “\$400,000,000” and inserted in lieu thereof “\$800,000,000”.

⁹Sec. 506 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3341) made duplicate amendments. Sec. 506(c) of that Act, however, provided:

“(c) **AVOIDANCE OF DUPLICATIVE AMENDMENTS.**—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section [subsec. (b) amended Public Law 102-229]. If that Act enacts such amendments, sections 503 and 508 of this act shall be deemed to apply with respect to the funds made available under such amendments.”.

(b) DEPARTMENT OF DEFENSE.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President,¹⁰ only in a program established under part B.

(d) CHARGES AGAINST FUNDS.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used in providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e)⁶ DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B for fiscal year 1992 or fiscal year 1993^{9, 11} unless expenditures for that program for that fiscal year^{9, 12} have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for that fiscal year^{9, 13} (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222.³ REPAYMENT ARRANGEMENTS.

(a) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

¹⁰ In a memorandum of May 10, 1996, for the Secretaries of State and Defense, the President delegated this authority to the Secretary of State (61 F.R. 26033).

¹¹ Sec. 1421(a)(3)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), inserted “for fiscal year 1992 or fiscal year 1993” after “under part B”.

¹² Sec. 1421(a)(3)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), inserted “for that fiscal year” after “for that program”.

¹³ Sec. 1421(a)(3)(C) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), struck out “for fiscal year 1992” and inserted in lieu thereof “for that fiscal year”.

SEC. 223.³ DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157¹⁴ should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

PART D—REPORTING REQUIREMENTS

SEC. 231.^{3,6} PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

- (1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and
- (2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232.¹⁵ * * * [Repealed—1994]

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301.¹⁶ AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

- (1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;
- (2) that these conditions could lead to the return of anti-democratic forces in the Soviet Union;
- (3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and
- (4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

- (1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an ap-

¹⁴ See sec. 108 of H.J. Res. 157 (Public Law 102-229), page 1663.

¹⁵ Sec. 139(17) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed sec. 232, which had required that the President report quarterly on certain activities to reduce the Soviet military threat.

¹⁶ In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President, to meet requirements on funds appropriated by section 109 of Public Law 102-229, relating to the “transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807 * * *”, designated such funds “as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended * * *”. The President further directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary as defined in section 301 of H.R. 3807 as passed by the Senate on November 25, 1991.

H.R. 3807 was enacted into law as Public Law 102-228 on December 12, 1991. References to H.R. 3807 as passed by the Senate on November 25, 1991, in the corresponding appropriations Act, Public Law 102-229, were amended by Public Law 102-484 and Public Law 102-511 to refer instead to the enacted authorization in Public Law 102-228.

appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed \$100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term “humanitarian assistance” does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) **REPORTS BY THE SECRETARY OF STATE.**—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary’s report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) **SOURCE OF FUNDS.**—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) **EMERGENCY REQUIREMENTS.**—The Congress designates all funds transferred pursuant to this section as “emergency requirements” for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be “emergency requirements” for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) **REPAYMENT ARRANGEMENTS.**—

(1) **REIMBURSEMENT ARRANGEMENTS.**—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) **NATURAL RESOURCES, ETC.**—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and in-

dustrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives¹⁷ of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.¹⁸ This report shall at a minimum, set forth—

- (1) the amount of funds transferred under this title, including the source of such funds;
- (2) the conditions which prompted the use of this authority;
- (3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;
- (4) the types and purpose of the cargo planned to be delivered pursuant to this title; and
- (5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

¹⁷Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

¹⁸Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401.¹⁹ ARMS CONTROL AND DISARMAMENT AGENCY. * * * [Repealed—1994]

SEC. 402.²⁰ ON-SITE INSPECTION AGENCY. * * *

¹⁹Sec. 401(a) and (b) amended the Arms Control and Disarmament Act at sec. 41 (22 U.S.C. 2581) and sec. 49 (22 U.S.C. 2589(a)). See pages 1202 and 1209, respectively. Sec. 401(c), which had required that the Inspector General of ACDA report to the President and to Congress on ACDA's fulfillment of primary functions described in section 2 of the Arms Control and Disarmament Act, was repealed by sec. 139(18) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398).

²⁰Sec. 402(a) amended secs. 61 and 64 of the Arms Control and Disarmament Act (22 U.S.C. 2595, 2595c). Sec. 402(b) redesignated sec. 64 of the Arms Control and Disarmament Act as sec. 65, and added a new sec. 64 (22 U.S.C. 2595b-1).

m. Soviet Nuclear Threat Reduction—Appropriations, Fiscal Year 1992

Partial text of Public Law 102-229 [Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of “Operation Desert Shield/Desert Storm” Act of 1992; H.J. Res. 157], 105 Stat. 1701, approved December 12, 1991; amended by Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; and by Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992

JOINT RESOLUTION Making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of “Operation Desert Shield/Desert Storm” for the fiscal year ending September 30, 1992, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

* * * * *

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

* * * * *

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, \$16,839,000,000.

(2) In the case of Kuwait, \$16,006,000,000.

(b) For purposes of this section, the term “any sale” means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of “conventional

armaments and equipment limited by the Treaty”, which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101-513 and in section 634A of the Foreign Assistance Act of 1961.

* * * * *

(TRANSFER OF FUNDS)

SEC. 108.¹ In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed \$400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228),^{2, 3} and under the terms and conditions of such Act:⁴ *Provided*, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.⁵

¹ Sec. 1205(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1781), provided the following:

“(c) AUTHORIZATION OF EXTENSION OF AVAILABILITY OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the authority to transfer funds of the Department of Defense provided in section 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1928), and in section 108 of Public Law 102-229 (105 Stat. 1708) shall continue to be in effect during fiscal year 1994.”

² Sec. 1421(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565), struck out “contained in H.R. 3807, as passed the Senate on November 25, 1991”, and inserted in lieu thereof “(title II of Public Law 102-228)”.

³ Sec. 506 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3341) made duplicate amendments. Sec. 506(c) of that Act, however, provided:

“(c) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section [subsec. (b) amended Public Law 102-229]. If that Act enacts such amendments, sections 503 and 508 of this act shall be deemed to apply with respect to the funds made available under such amendments.”

⁴ In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President, to meet requirements on funds appropriated by sec. 109 of Public Law 102-229, relating to the “transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807 * * *”, designated such funds “as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended * * *”. The President further directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary as defined by sec. 301 of H.R. 3807 as passed by the Senate on November 25, 1991.

For the Soviet Nuclear Threat Reduction Act of 1991, as contained in H.R. 3807, and passed by the Senate on November 25, 1991, see *Legislation on Foreign Relations Through 1991*, vol. II, page 1042. For the Soviet Nuclear Threat Reduction Act of 1991, as enacted into law (Public Law 102-228; 105 Stat. 1693), see page 1655.

⁵ Sec. 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1928), authorized the Secretary of Defense to transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to \$400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992, in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102-229 (105 Stat. 1708). The funds made available in sec. 9110(a) of Public Law 102-396 were earmarked for particular projects, see 106 Stat. 1928. Sec. 9110(c) of that Act authorized the transfer of another \$15,000,000 from the balances of DOD working capital funds for the purposes authorized in sec. 109. Sec. 9110(e) of that Act authorized the transfer of another \$40,000,000 for international proliferation activities pur-

(TRANSFER OF FUNDS)

SEC. 109.^{4, 5, 6} In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed \$100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of Public Law 102-228 (105 Stat. 1696),^{3, 7} and under the terms and conditions of such section 301:^{3, 8} *Provided*, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: *Provided further*, That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

* * * * *

TITLE II—GENERAL PROVISIONS

* * * * *

suant to the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484).

Title II of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1426), provided \$400,000,000 for former Soviet Union threat reduction. Title II of the Department of Defense Appropriations Act, 1995 (Public Law 103-335; 108 Stat. 2606), also provided \$400,000,000. Title I, chapter II, Department of Defense, Operation and Maintenance, of Public Law 104-6 (109 Stat. 77), however, rescinded \$20,000,000 of that which was provided in Public Law 103-335. Title II of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 642) provided \$300,000,000.

Most recently, title II of the Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104-208; 110 Stat. 3009), provided the following:

“FORMER SOVIET UNION THREAT REDUCTION

“For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; \$327,900,000, to remain available until expended.”

⁶In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President stated:

“1. I designate as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, the full amount for which section 109 provides.

“2. Effective upon satisfaction of applicable congressional notification requirements, I direct the Secretary of Defense to transfer funds under section 109 as it incorporates by reference section 301(b) of H.R. 3807 as passed the Senate on November 25, 1991.

“3. The authorities and duties of the President under section 301 of H.R. 3807 as passed the Senate on November 25, 1991, and referred to in section 109 (except the designation of emergency relating to funding addressed in paragraph 1 and the direction addressed in paragraph 2) are hereby delegated to the Secretary of Defense.”

⁷Sec. 1421(b)(2)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565) struck out “H.R. 3807, as passed the Senate on November 25, 1991” and inserted in lieu thereof “Public Law 102-228 (105 Stat. 1696)”.

⁸Sec. 1421(b)(2)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2565) struck out “of H.R. 3807” here.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as “emergency requirements”, the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid “emergency” needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as “emergency requirements” for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

* * * * *

SEC. 204. SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

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

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other’s rights to state independence and affirming each other’s territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, “all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development”.

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

(1) should recognize Ukraine’s independence and undertake steps toward the establishment of full diplomatic relations with

Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

* * * * *

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

4. Nonproliferation of Weapons of Mass Destruction¹

a. Iran Nonproliferation Act of 2000

Public Law 106-178 [H.R. 1883], 114 Stat. 38, approved March 14, 2000

AN ACT To provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

SECTION 1.² SHORT TITLE.

This Act may be cited as the “Iran Nonproliferation Act of 2000”.

SEC. 2. REPORTS ON PROLIFERATION TO IRAN.

(a) REPORTS.—The President shall, at the times specified in subsection (b), submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report identifying every foreign person with respect to whom there is credible information indicating that that person, on or after January 1, 1999, transferred to Iran—

(1) goods, services, or technology listed on—

(A) the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 1, and subsequent revisions) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 2, and subsequent revisions);

(B) the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions;

(C) the lists of items and substances relating to biological and chemical weapons the export of which is controlled by the Australia Group;

(D) the Schedule One or Schedule Two list of toxic chemicals and precursors the export of which is controlled pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; or

¹ See also arms control provisions in annual National Defense Authorization Acts, this volume. See also international terrorism provisions, this volume. See also in the Arms Export Control Act (*Legislation on Foreign Relations Through 2001*, vol. I-A): chapter 7—Control of Missiles and Missile Equipment Technology, chapter 8—Chemical or Biological Weapons Proliferation, and chapter 10—Nuclear Proliferation Controls. See also in the Export Administration Act of 1979 (*Legislation on Foreign Relations Through 2000*, vol. III): sec. 5—National Security Controls, sec. 6—Foreign Policy Controls, sec. 11A—Multilateral Export Control Violations, sec. 11B—Missile Proliferation Control Violations, sec. 11C—Chemical and Biological Weapons Proliferation Sanctions.

² 50 U.S.C. 1701 note.

- (E) the Wassenaar Arrangement list of Dual Use Goods and Technologies and Munitions list of July 12, 1996, and subsequent revisions; or
- (2) goods, services, or technology not listed on any list identified in paragraph (1) but which nevertheless would be, if they were United States goods, services, or technology, prohibited for export to Iran because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.
- (b) **TIMING OF REPORTS.**—The reports under subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act, not later than 6 months after such date of enactment, and not later than the end of each 6-month period thereafter.
- (c) **EXCEPTIONS.**—Any foreign person who—
- (1) was identified in a previous report submitted under subsection (a) on account of a particular transfer; or
- (2) has engaged in a transfer on behalf of, or in concert with, the Government of the United States, is not required to be identified on account of that same transfer in any report submitted thereafter under this section, except to the degree that new information has emerged indicating that the particular transfer may have continued, or been larger, more significant, or different in nature than previously reported under this section.
- (d) **SUBMISSION IN CLASSIFIED FORM.**—When the President considers it appropriate, reports submitted under subsection (a), or appropriate parts thereof, may be submitted in classified form.
- SEC. 3. APPLICATION OF MEASURES TO CERTAIN FOREIGN PERSONS.**
- (a) **APPLICATION OF MEASURES.**—Subject to sections 4 and 5, the President is authorized to apply with respect to each foreign person identified in a report submitted pursuant to section 2(a), for such period of time as he may determine, any or all of the measures described in subsection (b).
- (b) **DESCRIPTION OF MEASURES.**—The measures referred to in subsection (a) are the following:
- (1) **EXECUTIVE ORDER NO. 12938 PROHIBITIONS.**—The measures set forth in subsections (b) and (c) of section 4 of Executive Order No. 12938.
- (2) **ARMS EXPORT PROHIBITION.**—Prohibition on United States Government sales to that foreign person of any item on the United States Munitions List as in effect on August 8, 1995, and termination of sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act.
- (3) **DUAL USE EXPORT PROHIBITION.**—Denial of licenses and suspension of existing licenses for the transfer to that person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.
- (c) **EFFECTIVE DATE OF MEASURES.**—Measures applied pursuant to subsection (a) shall be effective with respect to a foreign person no later than—

(1) 90 days after the report identifying the foreign person is submitted, if the report is submitted on or before the date required by section 2(b);

(2) 90 days after the date required by section 2(b) for submitting the report, if the report identifying the foreign person is submitted within 60 days after that date; or

(3) on the date that the report identifying the foreign person is submitted, if that report is submitted more than 60 days after the date required by section 2(b).

(d) PUBLICATION IN FEDERAL REGISTER.—The application of measures to a foreign person pursuant to subsection (a) shall be announced by notice published in the Federal Register.

SEC. 4. PROCEDURES IF MEASURES ARE NOT APPLIED.

(a) REQUIREMENT TO NOTIFY CONGRESS.—Should the President not exercise the authority of section 3(a) to apply any or all of the measures described in section 3(b) with respect to a foreign person identified in a report submitted pursuant to section 2(a), he shall so notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate no later than the effective date under section 3(c) for measures with respect to that person.

(b) WRITTEN JUSTIFICATION.—Any notification submitted by the President under subsection (a) shall include a written justification describing in detail the facts and circumstances relating specifically to the foreign person identified in a report submitted pursuant to section 2(a) that support the President's decision not to exercise the authority of section 3(a) with respect to that person.

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the notification of the President under subsection (a), and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 5. DETERMINATION EXEMPTING FOREIGN PERSON FROM SECTIONS 3 AND 4.

(a) IN GENERAL.—Sections 3 and 4 shall not apply to a foreign person 15 days after the President reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the President has determined, on the basis of information provided by that person, or otherwise obtained by the President, that—

(1) the person did not, on or after January 1, 1999, knowingly transfer to Iran the goods, services, or technology the apparent transfer of which caused that person to be identified in a report submitted pursuant to section 2(a);

(2) the goods, services, or technology the transfer of which caused that person to be identified in a report submitted pursuant to section 2(a) did not materially contribute to Iran's efforts to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems;

(3) the person is subject to the primary jurisdiction of a government that is an adherent to one or more relevant nonproliferation regimes, the person was identified in a report submitted pursuant to section 2(a) with respect to a transfer of goods, services, or technology described in section 2(a)(1), and

such transfer was made consistent with the guidelines and parameters of all such relevant regimes of which such government is an adherent; or

(4) the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of the goods, services, or technology which caused that person to be identified in a report submitted pursuant to section 2(a).

(b) **OPPORTUNITY TO PROVIDE INFORMATION.**—Congress urges the President—

(1) in every appropriate case, to contact in a timely fashion each foreign person identified in each report submitted pursuant to section 2(a), or the government with primary jurisdiction over such person, in order to afford such person, or governments, the opportunity to provide explanatory, exculpatory, or other additional information with respect to the transfer that caused such person to be identified in a report submitted pursuant to section 2(a); and

(2) to exercise the authority in subsection (a) in all cases where information obtained from a foreign person identified in a report submitted pursuant to section 2(a), or from the government with primary jurisdiction over such person, establishes that the exercise of such authority is warranted.

(c) **SUBMISSION IN CLASSIFIED FORM.**—When the President considers it appropriate, the determination and report of the President under subsection (a), or appropriate parts thereof, may be submitted in classified form.

SEC. 6. RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.

(a) **RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.**—Notwithstanding any other provision of law, no agency of the United States Government may make extraordinary payments in connection with the International Space Station to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any other organization, entity, or element of the Government of the Russian Federation, unless, during the fiscal year in which the extraordinary payments in connection with the International Space Station are to be made, the President has made the determination described in subsection (b), and reported such determination to the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate.

(b) **DETERMINATION REGARDING RUSSIAN COOPERATION IN PREVENTING PROLIFERATION TO IRAN.**—The determination referred to in subsection (a) is a determination by the President that—

(1) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(2) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intel-

ligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(3) neither the Russian Aviation and Space Agency, nor any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, has, during the 1-year period prior to the date of the determination pursuant to this subsection, made transfers to Iran reportable under section 2(a) of this Act (other than transfers with respect to which a determination pursuant to section 5 has been or will be made).

(c) **PRIOR NOTIFICATION.**—Not less than 5 days before making a determination under subsection (b), the President shall notify the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate of his intention to make such determination.

(d) **WRITTEN JUSTIFICATION.**—A determination of the President under subsection (b) shall include a written justification describing in detail the facts and circumstances supporting the President's conclusion.

(e) **SUBMISSION IN CLASSIFIED FORM.**—When the President considers it appropriate, a determination of the President under subsection (b), a prior notification under subsection (c), and a written justification under subsection (d), or appropriate parts thereof, may be submitted in classified form.

(f) **EXCEPTION FOR CREW SAFETY.**—

(1) **EXCEPTION.**—The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency or any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency if the President has notified the Congress in writing that such payments are necessary to prevent the imminent loss of life by or grievous injury to individuals aboard the International Space Station.

(2) **REPORT.**—Not later than 30 days after notifying Congress that the National Aeronautics and Space Administration will make extraordinary payments under paragraph (1), the President shall submit to Congress a report describing—

(A) the extent to which the provisions of subsection (b) had been met as of the date of notification; and

(B) the measures that the National Aeronautics and Space Administration is taking to ensure that—

(i) the conditions posing a threat of imminent loss of life by or grievous injury to individuals aboard the International Space Station necessitating the extraordinary payments are not repeated; and

(ii) it is no longer necessary to make extraordinary payments in order to prevent imminent loss of life by

or grievous injury to individuals aboard the International Space Station.

(g) SERVICE MODULE EXCEPTION.—(1) The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any subcontractor thereof for the construction, testing, preparation, delivery, launch, or maintenance of the Service Module, and for the purchase (at a total cost not to exceed \$14,000,000) of the pressure dome for the Interim Control Module and the Androgynous Peripheral Docking Adapter and related hardware for the United States propulsion module, if—

(A) the President has notified Congress at least 5 days before making such payments;

(B) no report has been made under section 2 with respect to an activity of the entity to receive such payment, and the President has no credible information of any activity that would require such a report; and

(C) the United States will receive goods or services of value to the United States commensurate with the value of the extraordinary payments made.

(2) For purposes of this subsection, the term “maintenance” means activities which cannot be performed by the National Aeronautics and Space Administration and which must be performed in order for the Service Module to provide environmental control, life support, and orbital maintenance functions which cannot be performed by an alternative means at the time of payment.

(3) This subsection shall cease to be effective 60 days after a United States propulsion module is in place at the International Space Station.

(h) EXCEPTION.—Notwithstanding subsections (a) and (b), no agency of the United States Government may make extraordinary payments in connection with the International Space Station to any foreign person subject to measures applied pursuant to—

(1) section 3 of this Act; or

(2) section 4 of Executive Order No. 12938 (November 14, 1994), as amended by Executive Order No. 13094 (July 28, 1998).

Such payments shall also not be made to any other entity if the agency of the United States Government anticipates that such payments will be passed on to such a foreign person.

SEC. 7. DEFINITIONS.

For purposes of this Act, the following terms have the following meanings:

(1) EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.—The term “extraordinary payments in connection with the International Space Station” means payments in cash or in kind made or to be made by the United States Government—

(A) for work on the International Space Station which the Russian Government pledged at any time to provide at its expense; or

- (B) for work on the International Space Station, or for the purchase of goods or services relating to human space flight, that are not required to be made under the terms of a contract or other agreement that was in effect on January 1, 1999, as those terms were in effect on such date.
- (2) FOREIGN PERSON; PERSON.—The terms “foreign person” and “person” mean—
- (A) a natural person that is an alien;
 - (B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of a foreign country or has its principal place of business in a foreign country;
 - (C) any foreign governmental entity operating as a business enterprise; and
 - (D) any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).
- (3) EXECUTIVE ORDER NO. 12938.—The term “Executive Order No. 12938” means Executive Order No. 12938 as in effect on January 1, 1999.
- (4) ADHERENT TO RELEVANT NONPROLIFERATION REGIME.—A government is an “adherent” to a “relevant nonproliferation regime” if that government—
- (A) is a member of the Nuclear Suppliers Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(A);
 - (B) is a member of the Missile Technology Control Regime with respect to a transfer of goods, services, or technology described in section 2(a)(1)(B), or is a party to a binding international agreement with the United States that was in effect on January 1, 1999, to control the transfer of such goods, services, or technology in accordance with the criteria and standards set forth in the Missile Technology Control Regime;
 - (C) is a member of the Australia Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(C);
 - (D) is a party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction with respect to a transfer of goods, services, or technology described in section 2(a)(1)(D); or
 - (E) is a member of the Wassenaar Arrangement with respect to a transfer of goods, services, or technology described in section 2(a)(1)(E).
- (5) ORGANIZATION OR ENTITY UNDER THE JURISDICTION OR CONTROL OF THE RUSSIAN AVIATION AND SPACE AGENCY.—(A) The term “organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency” means an organization or entity that—
- (i) was made part of the Russian Space Agency upon its establishment on February 25, 1992;

- (ii) was transferred to the Russian Space Agency by decree of the Russian Government on July 25, 1994, or May 12, 1998;
 - (iii) was or is transferred to the Russian Aviation and Space Agency or Russian Space Agency by decree of the Russian Government at any other time before, on, or after the date of the enactment of this Act; or
 - (iv) is a joint stock company in which the Russian Aviation and Space Agency or Russian Space Agency has at any time held controlling interest.
- (B) Any organization or entity described in subparagraph (A) shall be deemed to be under the jurisdiction or control of the Russian Aviation and Space Agency regardless of whether—
- (i) such organization or entity, after being part of or transferred to the Russian Aviation and Space Agency or Russian Space Agency, is removed from or transferred out of the Russian Aviation and Space Agency or Russian Space Agency; or
 - (ii) the Russian Aviation and Space Agency or Russian Space Agency, after holding a controlling interest in such organization or entity, divests its controlling interest.

**b. National Security and Corporate Fairness Under the
Biological Weapons Convention Act**

**Partial text of Public Law 106-113 [H.R. 3194], 113 Stat. 1501 at 1536,
approved November 29, 1999**

* * * * *

SEC. 1000. (a) The provisions of the following bills are hereby en-
acted into law:

(1)–(6) * * *

(7) H.R. 3427 of the 106th Congress, as introduced on No-
vember 17, 1999;

(8)–(9) * * *

* * * * *

A BILL To authorize appropriations for the Department of State for fiscal years
2000 and 2001; to provide for enhanced security at United States diplomatic facili-
ties; to provide for certain arms control, nonproliferation, and other national secu-
rity measures; to provide for reform of the United Nations; and for other purposes

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Admiral James W. Nance and Meg
Donovan Foreign Relations Authorization Act, Fiscal Years 2000
and 2001”.

* * * * *

**DIVISION B—ARMS CONTROL, NONPROLIFERATION,
AND SECURITY ASSISTANCE PROVISIONS**

SEC. 1001. SHORT TITLE.

This division may be cited as the “Arms Control, Nonprolifera-
tion, and Security Assistance Act of 1999”.

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Subtitle A—Arms Control

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**CHAPTER 2—MATTERS RELATING TO THE CONTROL OF
BIOLOGICAL WEAPONS¹**

SEC. 1121. SHORT TITLE.

This chapter may be cited as the “National Security and Cor-
porate Fairness under the Biological Weapons Convention Act”.

SEC. 1122. DEFINITIONS.

In this chapter:

¹ 22 U.S.C. 5601 note.

(1) **BIOLOGICAL WEAPONS CONVENTION.**—The term “Biological Weapons Convention” means the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

(2) **COMPLIANCE PROTOCOL.**—The term “compliance protocol” means that segment of a bilateral or multilateral agreement that enables investigation of questions of compliance entailing written data or visits to facilities to monitor compliance.

(3) **INDUSTRY.**—The term “industry” means any corporate or private sector entity engaged in the research, development, production, import, and export of peaceful pharmaceuticals and bio-technological and related products.

SEC. 1123. FINDINGS.

Congress makes the following findings:

(1) The threat of biological weapons and their proliferation is one of the greatest national security threats facing the United States.

(2) The threat of biological weapons and materials represents a serious and increasing danger to people around the world.

(3) Biological weapons are relatively inexpensive to produce, can be made with readily available expertise and equipment, do not require much space to make and can therefore be readily concealed, do not require unusual raw materials or materials not readily available for legitimate purposes, do not require the maintenance of stockpiles, or can be delivered with low-technology mechanisms, and can effect widespread casualties even in small quantities.

(4) Unlike other weapons of mass destruction, biological materials capable of use as weapons can occur naturally in the environment and are also used for medicinal or other beneficial purposes.

(5) Biological weapons are morally reprehensible, prompting the United States Government to halt its offensive biological weapons program in 1969, subsequently destroy its entire biological weapons arsenal, and maintain henceforth only a robust defensive capacity.

(6) The Senate gave its advice and consent to ratification of the Biological Weapons Convention in 1974.

(7) The Director of the Arms Control and Disarmament Agency explained, at the time of the Senate’s consideration of the Biological Weapons Convention, that the treaty contained no verification provisions because verification would be “difficult”.

(8) A compliance protocol has now been proposed to strengthen the 1972 Biological Weapons Convention.

(9) The resources needed to produce, stockpile, and store biological weapons are the same as those used in peaceful industry facilities to discover, develop, and produce medicines.

(10) The raw materials of biological agents are difficult to use as an indicator of an offensive military program because the same materials occur in nature or can be used to produce a wide variety of products.

(11) Some biological products are genetically manipulated to develop new commercial products, optimizing production and ensuring the integrity of the product, making it difficult to distinguish between legitimate commercial activities and offensive military activities.

(12) Only a small culture of a biological agent and some growth medium are needed to produce a large amount of biological agents with the potential for offensive purposes.

(13) The United States pharmaceutical and biotechnology industries are a national asset and resource that contribute to the health and well-being of the American public as well as citizens around the world.

(14) One bacterium strain can represent a large proportion of a company's investment in a pharmaceutical product and thus its potential loss during an arms control monitoring activity could conceivably be worth billions of dollars.

(15) Biological products contain proprietary genetic information.

(16) The proposed compliance regime for the Biological Weapons Convention entails new data reporting and investigation requirements for industry.

(17) A compliance regime which contributes to the control of biological weapons and materials must have a reasonable chance of success in reducing the risk of production, stockpiling, or use of biological weapons while protecting the reputations, intellectual property, and confidential business information of legitimate companies.

SEC. 1124. TRIAL INVESTIGATIONS AND TRIAL VISITS.

(a) NATIONAL SECURITY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall conduct a series of national security trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security of the United States. These trial investigations and trial visits shall be conducted at such sites as United States Government facilities, installations, and national laboratories.

(b) UNITED STATES INDUSTRY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall take all appropriate steps to conduct or sponsor a series of United States industry trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security and the concerns of affected United States industries and research institutions. These trial investigations and trial visits shall be conducted at such sites as academic institutions, vaccine production facilities, and pharmaceutical and biotechnology firms in the United States.

(c) PARTICIPATION BY DEFENSE DEPARTMENT AND OTHER APPROPRIATE PERSONNEL.—The Secretary of Defense and, as appropriate, the Director of the Federal Bureau of Investigation shall make available specialized personnel to participate—

(1) in each trial investigation or trial visit conducted pursuant to subsection (a); and

(2) in each trial investigation or trial visit conducted pursuant to subsection (b), except for any investigation or visit in which the host facility requests that such personnel not participate,

for the purpose of assessing the information security implications of such investigation or visit. The Secretary of Defense, in coordination with the Director of the Federal Bureau of Investigation, shall add to the report required by subsection (d)(2) a classified annex containing an assessment of the risk to proprietary and classified information posed by any investigation or visit procedures in the compliance protocol.

(d) STUDY.—

(1) IN GENERAL.—The President shall conduct a study on the need for investigations and visits under the compliance protocol to the Biological Weapons Convention, including—

(A) an assessment of risks to national security and United States industry and research institutions of such on-site activities; and

(B) an assessment of the monitoring results that can be expected from such investigations and visits.

(2) REPORT.—Not later than the date on which a compliance protocol to the Biological Weapons Convention is submitted to the Senate for its advice and consent to ratification, the President shall submit to the Committee on Foreign Relations of the Senate a report, in both unclassified and classified form, setting forth—

(A) the findings of the study conducted pursuant to paragraph (1); and

(B) the results of trial investigations and trial visits conducted pursuant to subsections (a) and (b).

Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

SEC. 1131. CONGRESSIONAL NOTIFICATION OF NONPROLIFERATION ACTIVITIES.

Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) is amended to read as follows: * * *

SEC. 1132.² EFFECTIVE USE OF RESOURCES FOR NONPROLIFERATION PROGRAMS.

(a) PROHIBITION.—Except as provided in subsection (b), no assistance may be provided by the United States Government to any person who is involved in the research, development, design, testing, or evaluation of chemical or biological weapons for offensive purposes.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply to any activity conducted pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

² 50 U.S.C. 1526.

SEC. 1133. DISPOSITION OF WEAPONS-GRADE MATERIAL.

(a) **REPORT ON REDUCTION OF THE STOCKPILE.**—Not later than 120 days after signing an agreement between the United States and Russia for the disposition of excess weapons plutonium, the Secretary of Energy, with the concurrence of the Secretary of Defense, shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Committee on International Relations and the Committee on Armed Services of the House of Representatives a report—

(1) detailing plans for United States implementation of such agreement;

(2) identifying, in classified form, the number of United States warhead “pits” of each type deemed “excess” for the purpose of dismantlement or disposition; and

(3) describing any implications this may have for the Stockpile Stewardship and Management Program.

(b) **SUBMISSION OF THE FABRICATION FACILITY AGREEMENT PURSUANT TO LAW.**—Whenever the President submits to Congress the agreement to establish a mixed oxide fuel fabrication or production facility in Russia pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), it is the sense of the Congress that the Secretary of State should be prepared to certify to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House Representatives that—

(1) arrangements for the establishment of that facility will further United States nuclear nonproliferation objectives and will outweigh the proliferation risks inherent in the use of mixed oxide fuel elements;

(2) a guaranty has been given by Russia that no fuel elements produced, fabricated, reprocessed, or assembled at such facility, and no sensitive nuclear technology related to such facility, will be exported or supplied by Russia to any country in the event that the United States objects to such export or supply; and

(3) a guaranty has been given by Russia that the facility and all nuclear materials and equipment therein, and any fuel elements or special nuclear material produced, fabricated, reprocessed, or assembled at that facility, including fuel elements exported or supplied by Russia to a third party, will be subject to international monitoring and transparency sufficient to ensure that special nuclear material is not diverted.

(c) **DEFINITIONS.**—

(1) **PRODUCED.**—The terms “produce” and “produced” have the same meaning that such terms are given under section 11 u. of the Atomic Energy Act of 1954.

(2) **PRODUCTION FACILITY.**—The term “production facility” has the same meaning that such term is given under section 11 v. of the Atomic Energy Act of 1954.

(3) **SPECIAL NUCLEAR MATERIAL.**—The term “special nuclear material” has the meaning that such term is given under section 11 aa. of the Atomic Energy Act of 1954.

SEC. 1134.³ PROVISION OF CERTAIN INFORMATION TO CONGRESS.

(a) **REQUIREMENT TO PROVIDE INFORMATION.**—The head of each department and agency described in section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in meeting the requirements of subsection (c) or (d) of section 602 of such Act.

(b) **ISSUANCE OF DIRECTIVES.**—Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c) and (d)). Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.

SEC. 1135. AMENDED NUCLEAR EXPORT REPORTING REQUIREMENT.

Section 1523 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2180; 42 U.S.C. 2155 note) is amended—* * *

SEC. 1136. ADHERENCE TO THE MISSILE TECHNOLOGY CONTROL REGIME.

(a) **CLARIFICATION OF REQUIREMENT FOR CONTROL.**—Section 74 of the Arms Export Control Act (22 U.S.C. 2797c) is amended—* * *

(b) **CLARIFICATION OF APPLICABILITY.**—Section 73(b) of the Arms Export Control Act (22 U.S.C. 2797b(b)) is amended—* * *

(c) **ENFORCEMENT ACTIONS.**—Section 73(c) of the Arms Export Control Act (22 U.S.C. 2797b(c)) is amended * * *

(d) **POLICY REPORT.**—Section 73A of the Arms Export Control Act (22 U.S.C. 2797b-1) is amended—* * *

(e) **MTCR DEFINED.**—The term “MTCR” means the Missile Technology Control Regime, as defined in section 74(a)(2) of the Arms Export Control Act (22 U.S.C. 2797c(a)(2)).

SEC. 1137. AUTHORITY RELATING TO MTCR ADHERENTS.

Chapter 7 of the Arms Export Control Act (22 U.S.C. 2797 et seq.) is amended by inserting after section 73A the following new section: * * *

SEC. 1138.⁴ TRANSFER OF FUNDING FOR SCIENCE AND TECHNOLOGY CENTERS IN THE FORMER SOVIET UNION.

(a) **AUTHORIZATION.**—For fiscal year 2001 and subsequent fiscal years, funds made available under “Nonproliferation, Antiterrorism, Demining, and Related Programs” accounts in annual foreign operations appropriations Acts are authorized to be available for science and technology centers in the independent states of the former Soviet Union assisted under section 503(a)(5)

³ 22 U.S.C. 3282 note.

⁴ 22 U.S.C. 5853 note.

of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) or section 1412(b)(5) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484; 22 U.S.C. 5901 et seq.), including the use of those and other funds by any Federal agency having expertise and programs related to the activities carried out by those centers, including the Departments of Agriculture, Commerce, and Health and Human Services and the Environmental Protection Agency.

(b) AVAILABILITY OF FUNDS.—Amounts made available under any provision of law for the activities described in subsection (a) shall be available until expended and may be used notwithstanding any other provision of law.

SEC. 1139.⁴ RESEARCH AND EXCHANGE ACTIVITIES BY SCIENCE AND TECHNOLOGY CENTERS.

(a) IN GENERAL.—Support for science and technology centers in the independent states of the former Soviet Union, as authorized by section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484, 22 U.S.C. 5901 et seq.), is authorized for activities described in subsection (b) to support the redirection of former Soviet weapons scientists, especially those with expertise in weapons of mass destruction (nuclear, radiological, chemical, biological), missile and other delivery systems, and other advanced technologies with military applications.

(b) ACTIVITIES SUPPORTED.—Activities supported under subsection (a) include—

(1) any research activity involving the participation of former Soviet weapons scientists and civilian scientists and engineers, if the participation of the weapons scientists predominates; and

(2) any program of international exchanges that would provide former Soviet weapons scientists exposure to, and the opportunity to develop relations with, research and industry partners.

* * * * *

c. Proliferation Prevention Enhancement Act of 1999

**Partial text of Public Law 106-113 [H.R. 3194], 113 Stat. 1501 at 1536,
approved November 29, 1999**

* * * * *
SEC. 1000. (a) The provisions of the following bills are hereby enacted into law:

(1)–(6) * * *

(7) H.R. 3427 of the 106th Congress, as introduced on November 17, 1999;

(8)–(9) * * *

* * * * *

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001”.

* * * * *

**DIVISION B—ARMS CONTROL, NONPROLIFERATION,
AND SECURITY ASSISTANCE PROVISIONS**

SEC. 1001. SHORT TITLE.

This division may be cited as the “Arms Control, Nonproliferation, and Security Assistance Act of 1999”.

* * * * *

TITLE XII—SECURITY ASSISTANCE

SEC. 1201.¹ SHORT TITLE.

This title may be cited as the “Security Assistance Act of 1999”.

* * * * *

¹ 22 U.S.C. 2151 note.

Subtitle E—Automated Export System Relating to Export Information

SEC. 1251.² SHORT TITLE.

This subtitle may be cited as the Proliferation Prevention Enhancement Act of 1999.

SEC. 1252. MANDATORY USE OF THE AUTOMATED EXPORT SYSTEM FOR FILING CERTAIN SHIPPERS' EXPORT DECLARATIONS.

(a) **AUTHORITY.**—Section 301 of title 13, United States Code, is amended by adding at the end the following new subsection: * * *

(b)³ **IMPLEMENTING REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary of Commerce, with the concurrence of the Secretary of State, shall publish regulations in the Federal Register to require that, upon the effective date of those regulations, exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, file such Declarations through the Automated Export System with respect to exports of items on the United States Munitions List or the Commerce Control List.

(2) **ELEMENTS OF THE REGULATIONS.**—The regulations referred to in paragraph (1) shall include at a minimum—

(A) provision by the Department of Commerce for the establishment of on-line assistance services to be available for those individuals who must use the Automated Export System;

(B) provision by the Department of Commerce for ensuring that an individual who is required to use the Automated Export System is able to print out from the System a validated record of the individual's submission, including the date of the submission and a serial number or other unique identifier, where appropriate, for the export transaction; and

(C) a requirement that the Department of Commerce print out and maintain on file a paper copy or other acceptable back-up record of the individual's submission at a location selected by the Secretary of Commerce.

(c)³ **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 270 days after the Secretary of Commerce, the Secretary of the Treasury, and the Director of the National Institute of Standards and Technology jointly provide a certification to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that a secure Automated Export System available through the Internet that is capable of handling the expected volume of information required to be filed under subsection (b), plus the anticipated volume from voluntary use of the Automated Export System, has been successfully implemented and tested and is fully functional with respect to reporting all items on the United States Munitions List, including their quantities and destinations.

² 13 U.S.C. 1 note.

³ 13 U.S.C. 301 note.

SEC. 1253. VOLUNTARY USE OF THE AUTOMATED EXPORT SYSTEM.

It is the sense of Congress that exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, but who are not required under section 1252(b) to file such Declarations using the Automated Export System, should do so.

SEC. 1254. REPORT TO APPROPRIATE COMMITTEES OF CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Energy, and the Director of Central Intelligence, shall submit a report to the appropriate committees of Congress setting forth—

(1) the advisability and feasibility of mandating electronic filing through the Automated Export System for all Shippers' Export Declarations;

(2) the manner in which data gathered through the Automated Export System can most effectively be used, consistent with the need to ensure the confidentiality of business information, by other automated licensing systems administered by Federal agencies, including—

(A) the Defense Trade Application System of the Department of State;

(B) the Export Control Automated Support System of the Department of Commerce;

(C) the Foreign Disclosure and Technology Information System of the Department of Defense;

(D) the Proliferation Information Network System of the Department of Energy;

(E) the Enforcement Communication System of the Department of the Treasury; and

(F) the Export Control System of the Central Intelligence Agency; and

(3) a proposed timetable for any expansion of information required to be filed through the Automated Export System.

(b) DEFINITION.—In this section, the term "appropriate committees of Congress" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 1255. ACCELERATION OF DEPARTMENT OF STATE LICENSING PROCEDURES.

Notwithstanding any other provision of law, the Secretary of State may use funds appropriated or otherwise made available to the Department of State to employ—

(1) up to 40 percent of the individuals who are performing services within the Office of Defense Trade Controls of the Department of State in positions classified at GS-14 and GS-15 on the General Schedule under section 5332 of title 5, United States Code; and

(2) other individuals within the Office at a rate of basic pay that may exceed the maximum rate payable for positions classified at GS-15 on the General Schedule under section 5332 of that title.

SEC. 1256.⁴ DEFINITIONS.

In this subtitle:

(1) **AUTOMATED EXPORT SYSTEM.**—The term “Automated Export System” means the automated and electronic system for filing export information established under chapter 9 of title 13, United States Code, on June 19, 1995 (60 Federal Register 32040).

(2) **COMMERCE CONTROL LIST.**—The term “Commerce Control List” has the meaning given the term in section 774.1 of title 15, Code of Federal Regulations.

(3) **SHIPPERS’ EXPORT DECLARATION.**—The term “Shippers’ Export Declaration” means the export information filed under chapter 9 of title 13, United States Code, as described in part 30 of title 15, Code of Federal Regulations.

(4) **UNITED STATES MUNITIONS LIST.**—The term “United States Munitions List” means the list of items controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

* * * * *

⁴ 13 U.S.C. 301 note.

d. National Missile Defense Act of 1999

Public Law 106-38 [H.R. 4], 113 Stat. 205, approved July 22, 1999

AN ACT To declare it to be the policy of the United States to deploy a national missile defense.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Missile Defense Act of 1999”.

It is the policy of the United States to deploy as soon as it is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate) with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense.

SEC. 3.¹ POLICY ON REDUCTION OF RUSSIAN NUCLEAR FORCES.

It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.

¹ 22 U.S.C. 5901 note.

e. Chemical Weapons Convention Implementation Act of 1998

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; amended by Public Law 106-280 [Security Assistance Act of 2000; H.R. 4919], 114 Stat. 845, approved October 6, 2000

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

* * * * *

DIVISION I—CHEMICAL WEAPONS CONVENTION

SECTION 1.¹ SHORT TITLE.

This Division may be cited as the “Chemical Weapons Convention Implementation Act of 1998”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Designation of United States National Authority.
- Sec. 102. No abridgement of constitutional rights.
- Sec. 103. Civil liability of the United States.

TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

- Sec. 201. Criminal and civil provisions.

Subtitle B—Revocations of Export Privileges

- Sec. 211. Revocations of export privileges.

TITLE III—INSPECTIONS

- Sec. 301. Definitions in the title.
- Sec. 302. Facility agreements.
- Sec. 303. Authority to conduct inspections.
- Sec. 304. Procedures for inspections.
- Sec. 305. Warrants.

¹ 22 U.S.C. 6701 note.

- Sec. 306. Prohibited acts relating to inspections.
- Sec. 307. National security exception.
- Sec. 308. Protection of constitutional rights of contractors.
- Sec. 309. Annual report on inspections.
- Sec. 310. United States assistance in inspections at private facilities.

TITLE IV—REPORTS

- Sec. 401. Reports required by the United States National Authority.
- Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.
- Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.
- Sec. 404. Confidentiality of information.
- Sec. 405. Recordkeeping violations.

TITLE V—ENFORCEMENT

- Sec. 501. Penalties.
- Sec. 502. Specific enforcement.
- Sec. 503. Expedited judicial review.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Repeal.
- Sec. 602. Prohibition.
- Sec. 603. Bankruptcy actions.

SEC. 3.² DEFINITIONS.

In this Act:

(1) **CHEMICAL WEAPON.**—The term “chemical weapon” means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this Act as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) **CHEMICAL WEAPONS CONVENTION; CONVENTION.**—The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) **KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.**—The term “key component of a binary or multicomponent chemical system” means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) **NATIONAL OF THE UNITED STATES.**—The term “national of the United States” has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(5) **ORGANIZATION.**—The term “Organization” means the Organization for the Prohibition of Chemical Weapons.

² 22 U.S.C. 6701.

(6) PERSON.—The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) PRECURSOR.—

(A) IN GENERAL.—The term “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multi-component chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) PURPOSES NOT PROHIBITED BY THIS ACT.—The term “purposes not prohibited by this Act” means the following:

(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) TECHNICAL SECRETARIAT.—The term “Technical Secretariat” means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) SCHEDULE 1 CHEMICAL AGENT.—The term “Schedule 1 chemical agent” means any of the following, together or separately:

(A) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl
(Me, Et, n-Pr or i-Pr)-phosphonofluoridates
(e.g. Sarin: O-Isopropyl methylphosphonofluoridate
Soman: O-Pinacolyl methylphosphonofluoridate).

(B) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl
(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates
(e.g. Tabun: O-Ethyl N,N-dimethyl
phosphoramidocyanidate).

(C) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts

- (e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).
- (D) Sulfur mustards:
2-Chloroethylchloromethylsulfide
Mustard gas: (Bis(2-chloroethyl)sulfide
Bis(2-chloroethylthio)methane
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane
1,3-Bis(2-chloroethylthio)-n-propane
1,4-Bis(2-chloroethylthio)-n-butane
1,5-Bis(2-chloroethylthio)-n-pentane
Bis(2-chloroethylthiomethyl)ether
O-Mustard: Bis(2-chloroethylthioethyl)ether.
- (E) Lewisites:
Lewisite 1: 2-Chlorovinyl dichloroarsine
Lewisite 2: Bis(2-chlorovinyl)chloroarsine
Lewisite 3: Tris (2-chlorovinyl)arsine.
- (F) Nitrogen mustards:
HN1: Bis(2-chloroethyl)ethylamine
HN2: Bis(2-chloroethyl)methylamine
HN3: Tris(2-chloroethyl)amine.
- (G) Saxitoxin.
- (H) Ricin.
- (I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
e.g. DF: Methylphosphonyldifluoride.
- (J) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl)O-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.
- (K) Chlorosarin: O-Isopropyl methylphosphonochloridate.
- (L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.
- (11) SCHEDULE 2 CHEMICAL AGENT.—The term 'Schedule 2 chemical agent' means the following, together or separately:
- (A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts.
- (B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.
- (C) BZ: 3-Quinuclidinyl benzilate
- (D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,
e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate
Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.
- (E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.
- (F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.
- (G) arsenic trichloride.
- (H) 2,2-Diphenyl-2-hydroxyacetic acid.
- (I) Quinuclidine-3-ol.
- (J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.
- (K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts

Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.

(L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

(M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.

(N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) SCHEDULE 3 CHEMICAL AGENT.—The term ‘Schedule 3 chemical agent’ means any of the following, together or separately:

(A) Phosgene: carbonyl dichloride.

(B) Cyanogen chloride.

(C) Hydrogen cyanide.

(D) Chloropicrin: trichloronitromethane.

(E) Phosphorous oxychloride.

(F) Phosphorous trichloride.

(G) Phosphorous pentachloride.

(H) Trimethyl phosphite.

(I) Triethyl phosphite.

(J) Dimethyl phosphite.

(K) Diethyl phosphite.

(L) Sulfur monochloride.

(M) Sulfur dichloride.

(N) Thionyl chloride.

(O) Ethyldiethanolamine.

(P) Methyldiethanolamine.

(Q) Triethanolamine.

(13) TOXIC CHEMICAL.—

(A) IN GENERAL.—The term “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) UNITED STATES.—The term “United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

(15) UNSCHEDULED DISCRETE ORGANIC CHEMICAL.—The term “unscheduled discrete organic chemical” means any chemical

not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

TITLE I—GENERAL PROVISIONS

SEC. 101.³ DESIGNATION OF UNITED STATES NATIONAL AUTHORITY.

(a) DESIGNATION.—Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) PURPOSES.—The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this Act in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) DIRECTOR.—The Secretary of State shall serve as the Director of the United States National Authority.

(d) POWERS.—The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this Act.

(e) IMPLEMENTATION.—The President is authorized to implement and carry out the provisions of this Act and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this Act and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

SEC. 102.⁴ NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this Act or the Convention.

SEC. 103.⁵ CIVIL LIABILITY OF THE UNITED STATES.

(a) CLAIMS FOR TAKING OF PROPERTY.—

(1) JURISDICTION OF COURTS OF THE UNITED STATES.—

(A) UNITED STATES COURT OF FEDERAL CLAIMS.—The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the action of any officer or employee of the Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the

³ 22 U.S.C. 6711.

⁴ 22 U.S.C. 6712.

⁵ 22 U.S.C. 6713.

United States pursuant to this Act or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this Act or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) DISTRICT COURTS.—The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed \$10,000.

(2) NOTIFICATION.—Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) INITIAL STEPS BY UNITED STATES GOVERNMENT TO SEEK REMEDIES.—During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this Act.

(4) BURDEN OF PROOF.—In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

(A) the value of proprietary information;

(B) the availability of the proprietary information;

(C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;

(D) the significance of proprietary information; and

(E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) TORT LIABILITY.—The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this Act.

(c) WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED STATES.—In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) AUTHORITY FOR CAUSE OF ACTION.—

(1) UNITED STATES ACTIONS IN UNITED STATES DISTRICT COURT.—Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting at the direction or the behest of that foreign nation.

(2) UNITED STATES ACTIONS IN COURTS OUTSIDE THE UNITED STATES.—The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such redress in the courts of the foreign nation from which the inspector is a national.

(3) ACTIONS BROUGHT BY INDIVIDUALS AND BUSINESSES.—Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this Act.

(e) RECOUPMENT.—

(1) POLICY.—It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this Act.

(2) SANCTIONS ON FOREIGN COMPANIES.—

(A) IMPOSITION OF SANCTIONS.—The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—

(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this Act; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act.

(ii) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities under section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a person described in subparagraph (A).

(iii) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a person described in subparagraph (A).

(iv) EXPORT-IMPORT BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) BLOCKING OF ASSETS.—The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of recouping funds in accordance with the policy in paragraph (1).

(vii) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) SANCTIONS ON FOREIGN GOVERNMENTS.—

(A) IMPOSITION OF SANCTIONS.—Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, en-

couraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act, and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) DENIAL OF CERTAIN LICENSES.—Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) DENIAL OF ASSISTANCE.—No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a country described in subparagraph (A).

(v) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a country described in subparagraph (A).

(vi) TERMINATION OF ASSISTANCE UNDER FOREIGN ASSISTANCE ACT OF 1961.—The United States shall terminate all assistance to a country described in subparagraph (A) under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance.

(vii) PRIVATE BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank

from making any loan or providing any credit to a country described in subparagraph (A).

(ix) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) SUSPENSION OF SANCTIONS UPON RECOUPMENT BY PAYMENT.—Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this Act.

(5) WAIVER OF SANCTIONS ON FOREIGN COUNTRIES.—The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) NOTIFICATION TO CONGRESS.—Not later than five days after sanctions become effective against a foreign person pursuant to this Act, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) SANCTIONS FOR UNAUTHORIZED DISCLOSURE OF UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after the date of enactment of this Act—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, such practice or disclosure having resulted in financial losses or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this Act;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION DEFINED.—In this section, the term “United States confidential business information” means any trade secrets or commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 304(e)(2) of this Act,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical,

or

(2) as described in section 552(b)(4) of title 5, United States Code,

and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

SEC. 201. CRIMINAL AND CIVIL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

“CHAPTER 11B—CHEMICAL WEAPONS

“Sec.

“229. Prohibited activities.

“229A. Penalties.

“229B. Criminal forfeitures; destruction of weapons.

“229C. Individual self-defense devices.

“229D. Injunctions.

“229E. Requests for military assistance to enforce prohibition in certain emergencies.

“229F. Definitions.

“§ 229. Prohibited activities

“(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

“(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

“(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

“(b) EXEMPTED AGENCIES AND PERSONS.—

“(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

“(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

“(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

“(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

“(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States;

“(2) takes place outside of the United States and is committed by a national of the United States;

“(3) is committed against a national of the United States while the national is outside the United States; or

“(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

“§ 229A. Penalties

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

“(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed \$100,000 for each such violation.

“(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

“(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruc-

tion or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

“§ 229B. Criminal forfeitures; destruction of weapons

“(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

“(1) any property, real or personal, owned, possessed, or used by a person involved in the offense;

“(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

“(3) any of the property used in any manner or part, to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

“(b) PROCEDURES.—

“(1) GENERAL.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

“(A) ‘this subchapter or subchapter II’ shall be deemed to be a reference to section 229A(a); and

“(B) ‘subsection (a)’ shall be deemed to be a reference to subsection (a) of this section.

“(2) TEMPORARY RESTRAINING ORDERS.—

“(A) IN GENERAL.—For the purposes of forfeiture proceedings under this section, a temporary restraining order may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if, in addition to the circumstances described in section 413(e)(2) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2)), the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

“(B) WARRANT OF SEIZURE.—If the court enters a temporary restraining order under this paragraph, it shall also issue a warrant authorizing the seizure of such property.

“(C) APPLICABLE PROCEDURES.—The procedures and time limits applicable to temporary restraining orders under section 413(e) (2) and (3) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e) (2) and (3)) shall apply to temporary restraining orders under this paragraph.

“(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that the property—

“(1) is for a purpose not prohibited under the Chemical Weapons Convention; and

“(2) is of a type and quantity that under the circumstances is consistent with that purpose.

“(d) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

“(e) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

“(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

“§ 229C. Individual self-defense devices

“Nothing in this chapter shall be construed to prohibit any individual self-defense device, including those using a pepper spray or chemical mace.

“§ 229D. Injunctions

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 229 or 229C of this title; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229D of this title.

“§ 229E. Requests for military assistance to enforce prohibition in certain emergencies

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

“§ 229F. Definitions

“In this chapter:

“(1) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

“(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

“(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ‘Chemical Weapons Convention’ and ‘Convention’ mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

“(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ‘key component of a binary or multicomponent chemical system’ means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

“(4) NATIONAL OF THE UNITED STATES.—The term ‘national of the United States’ has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“(5) PERSON.—The term ‘person’, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

“(6) PRECURSOR.—

“(A) IN GENERAL.—The term ‘precursor’ means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

“(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(7) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ‘purposes not prohibited by this chapter’ means the following:

“(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

“(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

“(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

“(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

“(8) TOXIC CHEMICAL.—

“(A) IN GENERAL.—The term ‘toxic chemical’ means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

“(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(9) UNITED STATES.—The term ‘United States’ means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

“(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

“(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

“(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).”.

(b) CONFORMING AMENDMENTS.—

(1) WEAPONS OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—* * *

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 11A the following new item: * * *

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 2332c of title 18, United States Code, relating to chemical weapons.

(2) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

Subtitle B—Revocations of Export Privileges

SEC. 211.⁶ REVOCATIONS OF EXPORT PRIVILEGES.

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

TITLE III—INSPECTIONS

SEC. 301.⁷ DEFINITIONS IN THE TITLE.

(a) IN GENERAL.—In this title, the terms “challenge inspection”, “plant site”, “plant”, “facility agreement”, “inspection team”, and “requesting state party” have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term “routine inspection” means an inspection, other than an “initial inspection”, undertaken pursuant to Article VI of the Convention.

(b) DEFINITION OF JUDGE OF THE UNITED STATES.—In this title, the term “judge of the United States” means a judge or magistrate judge of a district court of the United States.

SEC. 302.⁸ FACILITY AGREEMENTS.

(a) AUTHORIZATION OF INSPECTIONS.—Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

(b) TYPES OF FACILITY AGREEMENTS.—

(1) SCHEDULE TWO FACILITIES.—The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

(2) SCHEDULE THREE FACILITIES.—The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) NOTIFICATION REQUIREMENTS.—The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement

⁶ 18 U.S.C. 229 note.

⁷ 22 U.S.C. 6721.

⁸ 22 U.S.C. 6722.

relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) **CONTENT OF FACILITY AGREEMENTS.**—Facility agreements shall—

- (1) identify the areas, equipment, computers, records, data, and samples subject to inspection;
- (2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;
- (3) describe the timeframes for inspections; and
- (4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

SEC. 303.⁹ AUTHORITY TO CONDUCT INSPECTIONS.

(a) **PROHIBITION.**—No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this title.

(b) **AUTHORITY.**—

(1) **TECHNICAL SECRETARIAT INSPECTION TEAMS.**—Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) **UNITED STATES GOVERNMENT REPRESENTATIVES.**—The United States National Authority shall coordinate the designation of employees of the Federal Government to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A)¹⁰ a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation, accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration ac-

⁹ 22 U.S.C. 6723.

¹⁰ Sec. 1117 of the Arms Control and Nonproliferation Act of 1999 (title XI of division B of Public Law 106-113; 113 Stat. 1536) provided the following:

“SEC. 1117. PROTECTION OF UNITED STATES COMPANIES.

“(a) **REIMBURSEMENT.**—During the 2-year period beginning on the date of the enactment of this Act, the United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105-277)) shall, upon request of the Director of the Federal Bureau of Investigation, reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau for such period in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed \$2,000,000 for such 2-year period.

“(b) **REPORT.**—Not later than 180 days prior to the expiration of the 2-year period described in subsection (a), the Director of the Federal Bureau of Investigation shall prepare and submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on how activities under section 303(b)(2)(A) of the Chemical Weapons Convention Implementation Act of 1998 will be fully funded and implemented by the Federal Bureau of Investigation notwithstanding the expiration of the 2-year period described in subsection (a).”.

companies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

(3) OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.—

(A) IN GENERAL.—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.

(B) NOT SUBJECT TO JUDICIAL REVIEW.—Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

(c)¹¹ EXCEPTION.—The requirement under subsection (b)(2)(A) shall not apply to inspections of United States chemical weapons destruction facilities (as used within the meaning of part IV(C)(13) of the Verification Annex to the Convention).

SEC. 304.¹² PROCEDURES FOR INSPECTIONS.

(a) TYPES OF INSPECTIONS.—Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 305, except where other procedures are provided in a facility agreement entered into under section 302.

(b) NOTICE.—

(1) IN GENERAL.—An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) TIME OF NOTIFICATION.—The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

¹¹ Sec. 305 of the Security Assistance Act of 2000 (Public Law 106-280; 114 Stat. 854) added subsec. (c).

¹² 22 U.S.C. 6724.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

- (i) the type of inspection;
- (ii) the basis for the selection of the plant, plant site, or other facility or location for the type of inspection sought;
- (iii) the time and date that the inspection will begin and the period covered by the inspection; and
- (iv) the names and titles of the inspectors.

(B) SPECIAL RULE FOR CHALLENGE INSPECTIONS.—In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided for each inspection, except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(e) SCOPE.—

(1) IN GENERAL.—Except as provided in a warrant issued under section 305 or a facility agreement entered into under section 302, an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) EXCEPTION.—Unless required by the Convention, no inspection under this title shall extend to—

- (A) financial data;
- (B) sales and marketing data (other than shipment data);
- (C) pricing data;
- (D) personnel data;
- (E) research data;
- (F) patent data;
- (G) data maintained for compliance with environmental or occupational health and safety regulations; or
- (H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) SAMPLING AND SAFETY.—

(1) **IN GENERAL.**—The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in the United States pursuant to an inspection permitted by this Act may be transferred for analysis to any laboratory outside the territory of the United States.

(2) **COMPLIANCE WITH REGULATIONS.**—In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) **COORDINATION.**—The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 305.¹³ WARRANTS.

(a) **IN GENERAL.**—The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 304(a). If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the premises to be inspected may withhold consent for any reason or no reason. After providing notification pursuant to subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) **ROUTINE INSPECTIONS.**—

(1) **OBTAINING ADMINISTRATIVE SEARCH WARRANTS.**—For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

¹³22 U.S.C. 6725.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under title IV of this Act and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the num-

ber reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) **CONTENT OF WARRANTS.**—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) **CHALLENGE INSPECTIONS.**—

(A) **CRIMINAL SEARCH WARRANT.**—For any challenge inspection conducted on the territory of the United States pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) **INFORMATION PROVIDED.**—The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this Act has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) **CONTENT OF WARRANT.**—The warrant shall specify—

(i) the type of inspection authorized;

(ii) the purpose of the inspection;

(iii) the type of plant site, plant, or other facility or location to be inspected;

(iv) the areas of the plant site, plant, or other facility or location to be inspected;

(v) the items, documents, data, equipment, and computers that may be inspected or seized;

(vi) samples that may be taken;

(vii) the earliest commencement and latest concluding dates and times of the inspection; and

(viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the Federal Government employees accompanying the inspection team.

SEC. 306.¹⁴ PROHIBITED ACTS RELATING TO INSPECTIONS.

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this Act.

SEC. 307.¹⁵ NATIONAL SECURITY EXCEPTION.

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

SEC. 308. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.

(a) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following: * * *

(b) The table of contents in section 1(b) of such Act is amended by adding at the end the following: * * *

¹⁴ 22 U.S.C. 6726.

¹⁵ 22 U.S.C. 6727.

SEC. 309.¹⁶ ANNUAL REPORT ON INSPECTIONS.

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) **CONTENT OF REPORTS.**—Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to title IV of this Act.

(2) The number of inspections under the Convention conducted on the territory of the United States.

(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

(c) **DEFINITION.**—The term “appropriate congressional committees” means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 310.¹⁷ UNITED STATES ASSISTANCE IN INSPECTIONS AT PRIVATE FACILITIES.

(a) **ASSISTANCE IN PREPARATION FOR INSPECTIONS.**—At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) **REIMBURSEMENT REQUIREMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) **EXCEPTION.**—In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reim-

¹⁶ 22 U.S.C. 6728.

¹⁷ 22 U.S.C. 6729.

burse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) OWNERS COVERED BY UNITED STATES NATIONAL AUTHORITY REIMBURSEMENTS.—Subsection (b)(2) applies in the case of assistance provided to the following:

(1) SMALL BUSINESS CONCERNS.—A small business concern as defined in section 3 of the Small Business Act.

(2) DOMESTIC PRODUCERS OF SCHEDULE 3 OR UNSCHEDULED DISCRETE ORGANIC CHEMICALS.—Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

TITLE IV—REPORTS

SEC. 401.¹⁸ REPORTS REQUIRED BY THE UNITED STATES NATIONAL AUTHORITY.

(a) REGULATIONS ON RECORDKEEPING.—

(1) REQUIREMENTS.—The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) RULEMAKING.—The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

(b) COORDINATION.—

(1) AVOIDANCE OF DUPLICATION.—To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the impo-

¹⁸22 U.S.C. 6741.

sition of duplicative reporting requirements under this Act or any other law.

(2) DEFINITION.—As used in paragraph (1), the term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

SEC. 402.¹⁹ PROHIBITION RELATING TO LOW CONCENTRATIONS OF SCHEDULE 2 AND 3 CHEMICALS.

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

- (1) 10 percent concentration of a Schedule 2 chemical; or
- (2) 80 percent concentration of a Schedule 3 chemical.

(b) STANDARD FOR MEASUREMENT OF CONCENTRATION.—The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

SEC. 403.²⁰ PROHIBITION RELATING TO UNSCHEDULED DISCRETE ORGANIC CHEMICALS AND COINCIDENTAL BYPRODUCTS IN WASTE STREAMS.

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

- (1) an unscheduled discrete organic chemical; and
- (2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

SEC. 404.²¹ CONFIDENTIALITY OF INFORMATION.

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CONVENTION INFORMATION.—Except as provided in subsection (b) or (c), any confidential business information, as defined in section 103(g), reported to, or otherwise acquired by, the United States Government under this Act or under the Convention shall not be disclosed under section 552(a) of title 5, United States Code.

(b) EXCEPTIONS.—

- (1) INFORMATION FOR THE TECHNICAL SECRETARIAT.—Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

¹⁹ 22 U.S.C. 6742.

²⁰ 22 U.S.C. 6743.

²¹ 22 U.S.C. 6744.

(2) INFORMATION FOR CONGRESS.—Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) INFORMATION FOR ENFORCEMENT ACTIONS.—Information shall be disclosed to other Federal agencies for enforcement of this Act or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this Act or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) INFORMATION DISCLOSED IN THE NATIONAL INTEREST.—

(1) AUTHORITY.—The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this Act or the Convention, including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) NOTICE OF DISCLOSURE.—

(A) REQUIREMENT.—If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

(i) to the person that submitted such information; and

(ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) PROCEEDINGS ON OBJECTIONS.—In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by

subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) **CRIMINAL FORFEITURE.**—The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C of title 18, United States Code, as added by this Act.

(f) **INTERNATIONAL INSPECTORS.**—The provisions of this section shall also apply to employees of the Technical Secretariat.

SEC. 405.²² RECORDKEEPING VIOLATIONS.

It shall be unlawful for any person willfully to fail or refuse—

- (1) to establish or maintain any record required by this Act or any regulation prescribed under this Act;
- (2) to submit any report, notice, or other information to the United States Government in accordance with this Act or any regulation prescribed under this Act; or
- (3) to permit access to or copying of any record that is exempt from disclosure under this Act or any regulation prescribed under this Act.

TITLE V—ENFORCEMENT

SEC. 501.²³ PENALTIES.

(a) **CIVIL.**—

(1) **PENALTY AMOUNTS.**—

(A) **PROHIBITED ACTS RELATING TO INSPECTIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 306 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 306 continues shall constitute a separate violation of that section.

(B) **RECORDKEEPING VIOLATIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 405 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$5,000 for each such violation.

(2) **HEARING.**—

(A) **IN GENERAL.**—Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 306 or 405, the Secretary of State shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

²² 22 U.S.C. 6745.

²³ 22 U.S.C. 6761.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 306 or 405, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) OFFSETS.—The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit,

the validity and appropriateness of the final order shall not be subject to review.

(b) **CRIMINAL.**—Any person who knowingly violates any provision of section 306 or 405 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than one year, or both.

SEC. 502.²⁴ SPECIFIC ENFORCEMENT.

(a) **JURISDICTION.**—The district courts of the United States shall have jurisdiction over civil actions to—

- (1) restrain any violation of section 306 or 405 of this Act; and
- (2) compel the taking of any action required by or under this Act or the Convention.

(b) **CIVIL ACTIONS.**—

(1) **IN GENERAL.**—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 306 or 405 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) **SERVICE OF PROCESS.**—In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 503.²⁵ EXPEDITED JUDICIAL REVIEW.

(a) **CIVIL ACTION.**—Any person or entity subject to a search under this Act may file a civil action challenging the constitutionality of any provision of this Act. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) **EN BANC REVIEW.**—Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

²⁴ 22 U.S.C. 6762.

²⁵ 22 U.S.C. 6763.

TITLE VI—MISCELLANEOUS PROVISIONS**SEC. 601. REPEAL.**

Section 808 of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520; relating to the use of human subjects for the testing of chemical or biological agents) is repealed.

SEC. 602.²⁶ PROHIBITION.

(a) **IN GENERAL.**—Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

- (1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or
- (2) use human subjects for the testing of chemical or biological agents.

(b) **CONSTRUCTION.**—Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this Act (as defined in section 3(8)).

(c) **BIOLOGICAL AGENT DEFINED.**—In this section, the term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

- (1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
- (2) deterioration of food, water, equipment, supplies, or materials of any kind; or
- (3) deleterious alteration of the environment.

SEC. 603. BANKRUPTCY ACTIONS.

Section 362(b) of title 11, United States Code, is amended—* * *

²⁶22 U.S.C. 6771.

f. Defense Against Weapons of Mass Destruction Act of 1998

Partial text of Public Law 105-261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

TITLE XIV—DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION¹

- Sec. 1401. Short title.
- Sec. 1402. Domestic preparedness for response to threats of terrorist use of weapons of mass destruction.
- Sec. 1403. Report on domestic emergency preparedness.
- Sec. 1404. Threat and risk assessments.
- Sec. 1405. Advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.

SEC. 1401. SHORT TITLE.

This title may be cited as the “Defense Against Weapons of Mass Destruction Act of 1998”.

SEC. 1402. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by utilizing the President’s existing authorities to develop an integrated program that builds upon the program established under the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2714; 50 U.S.C. 2301 et seq.).

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

¹ 50 U.S.C. 2301 note.

SEC. 1403. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS.

Section 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1889; 31 U.S.C. 1113 note) is amended by adding at the end the following new subsection: * * *

SEC. 1404. THREAT AND RISK ASSESSMENTS.

(a) **REQUIREMENT TO DEVELOP METHODOLOGIES.**—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation and representatives of appropriate Federal, State, and local agencies, shall develop and test methodologies for assessing the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. The results of the tests may be used to determine the training and equipment requirements under the program developed under section 1402. The methodologies required by this subsection shall be developed using cities or local areas selected by the Attorney General, acting in consultation with the Director of the Federal Bureau of Investigation and appropriate representatives of Federal, State, and local agencies.

(b) **REQUIRED COMPLETION DATE.**—The requirements in subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.

SEC. 1405. ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) **REQUIREMENT FOR PANEL.**—The Secretary of Defense, in consultation with the Attorney General, the Secretary of Energy, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall enter into a contract with a federally funded research and development center to establish a panel to assess the capabilities for domestic response to terrorism involving weapons of mass destruction.

(b) **COMPOSITION OF PANEL; SELECTION.**—(1) The panel shall be composed of members who shall be private citizens of the United States with knowledge and expertise in emergency response matters.

(2) Members of the panel shall be selected by the federally funded research and development center in accordance with the terms of the contract established pursuant to subsection (a).

(c) **PROCEDURES FOR PANEL.**—The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including procedures for selection of a panel chairman.

(d) **DUTIES OF PANEL.**—The panel shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate roles of State and local government in funding effective local response capabilities.

(e) DEADLINE TO ENTER INTO CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act.

(f) DEADLINE FOR SELECTION OF PANEL MEMBERS.—Selection of panel members shall be made not later than 30 days after the date on which the Secretary enters into the contract required by subsection (a).

(g) INITIAL MEETING OF THE PANEL.—The panel shall conduct its first meeting not later than 30 days after the date that all the selections to the panel have been made.

(h) REPORTS.—(1) Not later than 6 months after the date of the first meeting of the panel, the panel shall submit to the President and to Congress an initial report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(2) Not later than December 15 of each year, beginning in 1999 and ending in 2001, the panel shall submit to the President and to the Congress a report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense, the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency, or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

(j) FUNDING.—The Secretary of Defense shall provide the funds necessary for the panel to carry out its duties from the funds available to the Department of Defense for weapons of mass destruction preparedness initiatives.

(k) COMPENSATION OF PANEL MEMBERS.—(1) Members of the panel shall serve without pay by reason of their work on the panel.

(2) Members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 57 of title 5, United States Code, while away from their homes or regular place of business in performance of services for the panel.

(l) TERMINATION OF THE PANEL.—The panel shall terminate three years after the date of the appointment of the member selected as chairman of the panel.

(m) DEFINITION.—In this section, the term “weapon of mass destruction” has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

* * * * *

g. Combatting Proliferation of Weapons of Mass Destruction Act of 1996¹

Partial text of Public Law 104-293 [Intelligence Authorization Act for Fiscal Year 1997; H.R. 3259], 110 Stat. 3461, approved October 11, 1996; amended by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT To authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1997”.

(b) TABLE OF CONTENTS.—* * *

* * * * *

TITLE VII—COMBATTING PROLIFERATION

SEC. 701.² SHORT TITLE.

This title may be cited as the “Combatting Proliferation of Weapons of Mass Destruction Act of 1996”.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 711.³ ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the “Commission”).

(b) MEMBERSHIP.—The Commission shall be composed of twelve members, none of whom may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and⁴ of whom—

(1) four shall be appointed by the President;

¹The title is as enrolled.

²50 U.S.C. 2301 note.

³50 U.S.C. 2351 note.

⁴Sec. 708(b)(1) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), struck out “eight members” and inserted in lieu thereof “twelve members, none of whom may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and”.

(2) three⁵ shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) three⁶ shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) **QUALIFICATIONS OF MEMBERS.**—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

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

(d) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) **INITIAL MEETING.**—Not later than 30 days after the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, regardless of whether all the members of the Commission have been appointed as of that date,⁷ the Commission shall hold its first meeting.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) **CHAIRMAN AND VICE CHAIRMAN.**—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) **MEETINGS.**—The Commission shall meet at the call of the Chairman.

SEC. 712.³ DUTIES OF COMMISSION.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Commission shall carry out a thorough study of the organization of the Federal Government, including

⁵ Sec. 708(b)(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), struck out “one” and inserted in lieu thereof “three”.

⁶ Sec. 708(b)(3) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), struck out “one” and inserted in lieu thereof “three”.

⁷ Sec. 708(b)(4) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), struck out “the date on which all members of the Commission have been appointed” and inserted in lieu thereof “the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, regardless of whether all the members of the Commission have been appointed as of that date,” [resulting in a double comma].

the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, includ-

ing assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(4)⁸ RESTRICTIONS.—In carrying out the study under paragraph (1), making the assessments under paragraph (2), and addressing the matters identified in paragraph (3), the Commission shall not review, evaluate, or report on—

(A) United States domestic response capabilities with respect to weapons of mass destruction; or

(B) the adequacy or usefulness of United States laws that provide for the imposition of sanctions on countries or entities that engage in the proliferation of weapons of mass destruction.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after January 18, 1998,⁹ the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 713.³ POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safe-

⁸Sec. 708(c) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), added para. (4).

⁹Sec. 708(a) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-390), struck out “the date of the enactment of this Act” and inserted in lieu thereof “January 18, 1998”.

guard classified information furnished to the Commission under this paragraph.

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

(d) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 714.³ COMMISSION PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) **COMPENSATION.**—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 715.³ TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

SEC. 716.³ DEFINITION.

For purposes of this subtitle, the term “intelligence community” shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 717.³ PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall not exceed \$1,000,000, and shall be paid¹⁰ out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

Subtitle B—Other Matters**SEC. 721.¹¹ REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.**

(a) **REPORTS.**—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) **FORM OF REPORTS.**—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

¹⁰Sec. 708(d) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105-277; 112 Stat. 2681-391), struck out “the date of the enactment of this Act” and inserted in lieu thereof “January 18, 1998”.struck out “shall be paid” and inserted in lieu thereof “shall not exceed \$1,000,000, and shall be paid”.

¹¹50 U.S.C. 2366.

h. Defense Against Weapons of Mass Destruction Act of 1996

Partial text of Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422 at 2714, approved September 23, 1996; amended by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

- Sec. 1401. Short title.
- Sec. 1402. Findings.
- Sec. 1403. Definitions.

Subtitle A—Domestic Preparedness

- Sec. 1411. Response to threats of terrorist use of weapons of mass destruction.
- Sec. 1412. Emergency response assistance program.
- Sec. 1413. Nuclear, chemical, and biological emergency response.
- Sec. 1414. Chemical-biological emergency response team.
- Sec. 1415. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons.
- Sec. 1416. Military assistance to civilian law enforcement officials in emergency situations involving biological or chemical weapons.
- Sec. 1417. Rapid response information system.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

- Sec. 1421. Procurement of detection equipment United States border security.
- Sec. 1422. Extension of coverage of International Emergency Economic Powers Act.
- Sec. 1423. Sense of Congress concerning criminal penalties.
- Sec. 1424. International border security.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

- Sec. 1431. Coverage of weapons-usable fissile materials in Cooperative Threat Reduction programs on elimination or transportation of nuclear weapons.
- Sec. 1432. Elimination of plutonium production.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

- Sec. 1441. National Coordinator on Nonproliferation.
- Sec. 1442. National Security Council Committee on Nonproliferation.
- Sec. 1443. Comprehensive preparedness program.
- Sec. 1444. Termination.

Subtitle E—Miscellaneous

- Sec. 1451. Sense of Congress concerning contracting policy.

- Sec. 1452. Transfers of allocations among Cooperative Threat Reduction programs.
- Sec. 1453. Sense of Congress concerning assistance to states of former Soviet Union.
- Sec. 1454. Purchase of low-enriched uranium derived from Russian highly enriched uranium.
- Sec. 1455. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft.

SEC. 1401.¹ SHORT TITLE.

This title may be cited as the “Defense Against Weapons of Mass Destruction Act of 1996”.

SEC. 1402.² FINDINGS.

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

¹ 50 U.S.C. 2301 note.

² 50 U.S.C. 2301 note. See also section on Cooperative Threat Reduction programs, this volume.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biologi-

cal, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

SEC. 1403.³ DEFINITIONS.

In this title:

(1) The term “weapon of mass destruction” means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

- (A) toxic or poisonous chemicals or their precursors;
- (B) a disease organism; or
- (C) radiation or radioactivity.

(2) The term “independent states of the former Soviet Union” has the meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235.

Subtitle A—Domestic Preparedness

SEC. 1411.⁴ RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) **ENHANCED RESPONSE CAPABILITY.**—In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) **REPORT REQUIRED.**—Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving

³ 50 U.S.C. 2302.

⁴ 50 U.S.C. 2311.

weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

SEC. 1412.⁵ EMERGENCY RESPONSE ASSISTANCE PROGRAM.

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) In this section, the official responsible for carrying out the program is referred to as the “lead official”.

(b) COORDINATION.—In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1).

(c) ELIGIBLE PARTICIPANTS.—The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) INVOLVEMENT OF OTHER FEDERAL AGENCIES.—(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(3) If the lead official is not the Secretary of Defense, and requests assistance from the Department of Defense that, in the judgment of the Secretary of Defense would affect military readiness or adversely affect national security, the Secretary of Defense may appeal the request for Department of Defense assistance by the lead official to the President.

(e) AVAILABLE ASSISTANCE.—Assistance available under this program shall include the following:

⁵ 50 U.S.C. 2312.

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a “hot line”) to a designated source of relevant data and expert advice for the use of State or local officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) LIMITATIONS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LAW ENFORCEMENT AGENCIES.—Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10, United States Code.

(g) ADMINISTRATION OF DEPARTMENT OF DEFENSE ASSISTANCE.—The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

(h) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, \$35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), \$10,500,000 is available for use by the Secretary of Defense to assist the Secretary of Health and Human Services in the establishment of metropolitan emergency medical response teams (commonly referred to as “Metropolitan Medical Strike Force Teams”) to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.

SEC. 1413.⁶ NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing,

⁶ 50 U.S.C. 2313.

dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—Of the total amount authorized to be appropriated under section 301, \$15,000,000 is available for providing assistance described in subsection (a).

SEC. 1414.⁷ CHEMICAL-BIOLOGICAL EMERGENCY RESPONSE TEAM.

(a) DEPARTMENT OF DEFENSE RAPID RESPONSE TEAM.—The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials.

(b) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Director shall carry out this subsection in consultation with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

SEC. 1415.⁸ TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.

(a) EMERGENCIES INVOLVING CHEMICAL OR BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

⁷ 50 U.S.C. 2314.

⁸ 50 U.S.C. 2315.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(c) ANNUAL REVISIONS OF PROGRAMS.—The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) OPTION TO TRANSFER RESPONSIBILITY.—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) FUNDING.—Of the total amount authorized to be appropriated under section 301, \$15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

SEC. 1416. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section: * * *⁹

⁹Sec. 1416 added a new sec. 382 to 18 U.S.C., relating to [domestic] emergency situations involving chemical or biological weapons of mass destruction. For text, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.—Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: * * *¹⁰

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following new section: * * *¹¹

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following new section: * * *¹²

(d)¹³ CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e)¹³ REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

SEC. 1417.¹⁴ RAPID RESPONSE INFORMATION SYSTEM.

(a) INVENTORY OF RAPID RESPONSE ASSETS.—(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the in-

¹⁰ For text, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

¹¹ Subsec. (c)(1)(A) added a new sec. 175a to 10 U.S.C., relating to requests for military assistance to enforce prohibition in certain [domestic] emergencies involving a biological weapon of mass destruction.

¹² Subsec. (c)(2)(A) added a new sec. 2332d to 18 U.S.C. relating to requests for military assistance to enforce prohibition in certain [domestic] emergencies involving a chemical weapon of mass destruction.

¹³ 50 U.S.C. 2316.

¹⁴ 50 U.S.C. 2317.

ventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b).

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) MASTER INVENTORY.—The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a). The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on accessing and using the physical equipment and assets included in the master list developed under subsection to respond to emergencies involving weapons of mass destruction.

(d) DATABASE ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) ACCESS TO INVENTORY AND DATABASE.—The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

SUBTITLE B—INTERDICTION OF WEAPONS OF MASS DESTRUCTION
AND RELATED MATERIALS

SEC. 1421.¹⁵ PROCUREMENT OF DETECTION EQUIPMENT UNITED STATES BORDER SECURITY.

Of the amount authorized to be appropriated by section 301, \$15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

¹⁵50 U.S.C. 2331.

SEC. 1422.¹⁶ EXTENSION OF COVERAGE OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

- (1) in subsection (a), by inserting “, or attempts to violate,” after “violates”; and
- (2) in subsection (b), by inserting “, or willfully attempts to violate,” after “violates”.

SEC. 1423.¹⁷ SENSE OF CONGRESS CONCERNING CRIMINAL PENALTIES.

(a) **SENSE OF CONGRESS CONCERNING INADEQUACY OF SENTENCING GUIDELINES.**—It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b)¹⁸ **URGING OF REVISION TO GUIDELINES.**—Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

- (1) Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410).
- (2) Sections 38 and 40 of the Arms Export Control Act (22 U.S.C. 2778 and 2780).
- (3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).
- (4) Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)).¹⁹

SEC. 1424.²⁰ INTERNATIONAL BORDER SECURITY.

(a) **SECRETARY OF DEFENSE RESPONSIBILITY.**—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) **FUNDING.**—Of the total amount authorized to be appropriated by section 301, \$15,000,000 is available for carrying out the programs referred to in subsection (a).

¹⁶For text of the International Emergency Economic Powers Act, see *Legislation on Foreign Relations Through 2000*, vol. III.

¹⁷50 U.S.C. 2332.

¹⁸Subsec. catchline shown as enrolled. Should read “URGING OF REVISION TO GUIDELINES”.

¹⁹Sec. 1069(c)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2136) struck out “(22 U.S.C. 2156a(c))” and inserted in lieu thereof “(42 U.S.C. 2139a(c)).”

²⁰50 U.S.C. 2333.

(c) ASSISTANCE TO STATES OF THE FORMER SOVIET UNION.—Assistance under programs referred to in subsection (a) may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

SUBTITLE C—CONTROL AND DISPOSITION OF WEAPONS OF MASS DESTRUCTION AND RELATED MATERIALS THREATENING THE UNITED STATES

SEC. 1431. COVERAGE OF WEAPONS-USABLE FISSILE MATERIALS IN COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.

Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469; 22 U.S.C. 5955 note) is amended by inserting “, fissile material suitable for use in nuclear weapons,” after “other weapons”.

SEC. 1432.²¹ ELIMINATION OF PLUTONIUM PRODUCTION.

(a) REPLACEMENT PROGRAM.—The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk-7 and Krasnoyarsk-26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

²¹ 50 U.S.C. 2341.

SUBTITLE D—COORDINATION OF POLICY AND COUNTERMEASURES
AGAINST PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

SEC. 1441.²² NATIONAL COORDINATOR ON NONPROLIFERATION.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) DUTIES.—The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation of the National Security Council;²³ and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 301, \$2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3).

SEC. 1442.²⁴ NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the “Committee”) is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of representatives of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

²² 50 U.S.C. 2351.

²³ Sec. 1069(c)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2136) struck out “established under section 1342” and inserted in lieu thereof “of the National Security Council”.

²⁴ 50 U.S.C. 2352.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

SEC. 1443.²⁵ COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1442, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

²⁵ 50 U.S.C. 2353.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terrorist or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

SEC. 1444.²⁶ TERMINATION.

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1441;²⁷ and

²⁶ 50 U.S.C. 2354.

²⁷ Sec. 1069(c)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2136) struck out “1341” and “1342” and inserted in lieu thereof, respectively, “1441” and “1442”.

(2) may terminate the Committee on Nonproliferation established under section 1442.²⁷

SUBTITLE E—MISCELLANEOUS

SEC. 1451.²⁸ SENSE OF CONGRESS CONCERNING CONTRACTING POLICY.

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subtitle C; and

(B) substantially expedite completion of the programs referred to in subtitle C; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

SEC. 1452.²⁹ TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

SEC. 1453.³⁰ SENSE OF CONGRESS CONCERNING ASSISTANCE TO STATES OF FORMER SOVIET UNION.

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in title XIV of the National Defense Authorization Act for Fiscal Years 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.)³¹ should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

²⁸ 50 U.S.C. 2361.

²⁹ 50 U.S.C. 2362.

³⁰ 50 U.S.C. 2363.

³¹ Sec. 1069(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2136) struck out “the National Defense Authorization Act for Fiscal Years 1993 and 1994” and inserted in lieu thereof “title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.)”.

SEC. 1454.³² PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

SEC. 1455.³³ SENSE OF CONGRESS CONCERNING PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

³² 50 U.S.C. 2364.

³³ 50 U.S.C. 2365.

i. Nuclear Proliferation Prevention Act of 1994

Partial text of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 507, approved April 30, 1994; amended by Public Law 104-164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996

TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT¹

SEC. 801. SHORT TITLE.

This title may be cited as the “Nuclear Proliferation Prevention Act of 1994”.

PART A—REPORTING ON NUCLEAR EXPORTS²

* * * * *

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION³

SEC. 821. IMPOSITION OF PROCUREMENT SANCTION ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION.

(a) DETERMINATION BY THE PRESIDENT.—

(1) **IN GENERAL.**—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) **PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.**—The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted

¹ 22 U.S.C. 3201 note.

² Part A amends the Nuclear Non-Proliferation Act of 1978.

³ Sec. 831 of this Act provided:

“SEC. 831. EFFECTIVE DATE.

“The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.”.

in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term “requisite knowledge” means situations in which a person “knows”, as “knowing” is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs⁴ of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the pro-

⁴Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

curement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

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

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

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

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

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

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

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

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

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

(E) to medical or other humanitarian items.

(d)⁵ ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to

⁵The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790).

acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

SEC. 822. ELIGIBILITY FOR ASSISTANCE.

(a)⁶ AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—* * *

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82-7.—Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982,⁷ made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

(2)⁸ * * *

SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and

⁶Subsec. (a) amended secs. 3 and 40 of the Arms Export Control Act (22 U.S.C. 2753, 2780).

⁷Presidential Determination No. 82-7 of February 10, 1982 (47 F.R. 9805), issued as a memorandum for the Secretary of State, read as follows:

“By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended (“the Act”), I hereby:

“(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

“(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

“(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.”

⁸Para. (2) amended sec. 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)).

vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b)⁹ * * *

SEC. 824. PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.

(a) **PROHIBITED ACTIVITY DEFINED.**—For purposes of this section, the term “prohibited activity” means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material;

or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device, by any individual, group, or non-nuclear-weapon state.

(b) **PROHIBITION.**—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) **PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.**—If the President determines,¹⁰ that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) **SANCTIONS.**—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) **BAN ON DEALINGS IN GOVERNMENT FINANCE.**—

(A) **DESIGNATION AS PRIMARY DEALER.**—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) **SERVICE AS DEPOSITARY.**—The person may not serve as a depositary for United States Government funds.

(2) **RESTRICTIONS ON OPERATIONS.**—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e)¹¹ **CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.**—

⁹Subsec. (b) amended sec. 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)).

¹⁰Sec. 157(b)(1) of Public Law 104-164 (110 Stat. 1440) struck out “in writing after opportunity for a hearing on the record” (resulting in a double comma).

¹¹Sec. 157(b)(2) and (3) of Public Law 104-164 (110 Stat. 1440) struck out subsec. (e) and redesignated subsecs. (f) through (k) as subsecs. (e) through (j), respectively. Former subsec. (e)

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(f) ¹¹ TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(g) ¹¹ WAIVER.—The President may waive the continued application of any sanction imposed on any person pursuant to an order

had provided that: "Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code."

issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(h)¹¹ ENFORCEMENT ACTION.—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

- (1) any violation of subsection (b); or
- (2) any order issued pursuant to subsection (c).

(i)¹¹ KNOWINGLY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term “knowingly” means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(j)¹¹ SCOPE OF APPLICATION.—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

SEC. 825.¹² EXPORT-IMPORT BANK. * * *

SEC. 826.¹³ AMENDMENT TO THE ARMS EXPORT CONTROL ACT. * * *

SEC. 827.¹⁴ REWARD. * * *

SEC. 828. REPORTS.

(a)¹⁵ CONTENT OF ACDA ANNUAL REPORT.—* * *

(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term “demarche” means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global

¹²Sec. 825 amended sec. 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)).

¹³Sec. 826(a) added a new chapter 10 to the Arms Export Control Act, relating to nuclear proliferation controls (22 U.S.C. 2799aa *et seq.*). Sec. 826(b) repealed secs. 669 and 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429, 2429a). Sec. 826(c) made corresponding technical amendments.

¹⁴Sec. 827 amended sec. 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)).

¹⁵Sec. 828(a) amended sec. 51(a) of the Arms Control and Disarmament Act.

spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

* * * * *

SEC. 830. DEFINITIONS.

For purposes of this part—

(1) the term “foreign person” means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term “goods or technology” means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term “IAEA safeguards” means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term “non-nuclear-weapon state” means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term “special nuclear material” has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term “United States person” means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term “unsafeguarded special nuclear material” means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

SEC. 831. EFFECTIVE DATE.

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 841. BILATERAL AND MULTILATERAL INITIATIVES.

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

SEC. 842. IAEA INTERNAL REFORMS.

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

SEC. 843. REPORTING REQUIREMENT.

(a) **REPORT REQUIRED.**—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) **CONTENTS OF REPORT.**—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

SEC. 844. DEFINITIONS.

As used in this part—

(1) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term “IAEA” means the International Atomic Energy Agency;

(3) the term “near real time material accountancy” means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term “special fissionable material” has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms “IAEA safeguards”, “non-nuclear-weapon state”, “nuclear explosive device”, and “special nuclear material” have the meanings given those terms in section 830 of this Act.

PART D—TERMINATION * * * [Repealed—1996]¹⁶

¹⁶Sec. 157(a) of Public Law 104-164 (110 Stat. 1440) repealed part D, which consisted only of sec. 851, which had provided the following:

“SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.

“On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.”

j. Weapons of Mass Destruction Control Act of 1992

Partial text of Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; amended by Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105-85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105-261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000 [S. 1059], 113 Stat. 512, approved October 5, 1999; and by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000

TITLE XV—NONPROLIFERATION

SEC. 1501. SHORT TITLE.

This title may be cited as the “Weapons of Mass Destruction Control Act of 1992”.

SEC. 1502. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the proliferation (A) of nuclear, biological, and chemical weapons (hereinafter in this title referred to as “weapons of mass destruction”) and related technology and knowledge and (B) of missile delivery systems remains one of the most serious threats to international peace and the national security of the United States in the post-cold war era;

(2) the proliferation of nuclear weapons, given the extraordinary lethality of those weapons, is of particularly serious concern;

(3) the nonproliferation policy of the United States should continue to seek to limit both the supply of and demand for weapons of mass destruction and to reduce the existing threat from proliferation of such weapons;

(4) substantial funding of nonproliferation activities by the United States is essential to controlling the proliferation of all weapons of mass destruction, especially nuclear weapons and missile delivery systems;

(5) the President’s nonproliferation policy statement of June 1992, and his September 10, 1992, initiative to increase funding for nonproliferation activities in the Department of Energy are praiseworthy;

(6) the Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction;

(7) the President should identify a full range of appropriate, high priority nonproliferation activities that can be undertaken by the United States and should include requests for full funding for those activities in the budget submission for fiscal year 1994;

(8) the Department of Defense and the Department of Energy have unique expertise that can further enhance the effectiveness of international nonproliferation activities;

(9) under the guidance of the President, the Secretary of Defense and the Secretary of Energy should continue to actively assist in United States nonproliferation activities and in formulating and executing United States nonproliferation policy, emphasizing activities such as improved capabilities (A) to detect and monitor proliferation, (B) to respond to terrorism, theft, and accidents involving weapons of mass destruction, and (C) to assist with interdiction and destruction of weapons of mass destruction and related weapons material; and

(10) in a manner consistent with United States nonproliferation policy, the Department of Defense and the Department of Energy should continue to maintain and to improve their capabilities to identify, monitor, and respond to proliferation of weapons of mass destruction and missile delivery systems.

SEC. 1503. REPORT ON DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NONPROLIFERATION ACTIVITIES.

(a) **REPORT REQUIRED.**—The Secretary of Defense and the Secretary of Energy shall jointly submit to the committees of Congress named in subsection (d)(1) a report describing the role of the Department of Defense and the Department of Energy with respect to the nonproliferation policy of the United States.

(b) **MATTERS TO BE COVERED IN REPORT.**—The report shall—

(1) address how the Secretary of Defense integrates and coordinates existing intelligence and military capabilities of the Department of Defense and how the Secretary of Energy integrates and coordinates the intelligence and emergency response capabilities of the Department of Energy in support of the nonproliferation policy of the United States;

(2) identify existing and planned capabilities within the Department of Defense, including particular capabilities of the military services, and the Department of Energy to (A) detect and monitor clandestine weapons of mass destruction programs, (B) respond to terrorism or accidents involving such weapons and to theft of related weapons materials, and (C) assist with interdiction and destruction of weapons of mass destruction and related weapons materials;

(3) describe, for the Department of Defense, the degree to which the Secretary of Defense has incorporated a nonproliferation mission into the overall mission of the unified combatant commands and how the Special Operations Command might support the commanders of the unified and specified commands in that mission;

(4) consider the appropriate roles of the Defense Advance Research Projects Agency (DARPA), the Defense Nuclear Agency (DNA), the On-Site-Inspection Agency (OSIA), and other Department of Defense agencies, as well as the national laboratories of the Department of Energy, in providing technical assistance and support for the efforts of the Department of Defense and the Department of Energy with respect to nonproliferation; and

(5) identify existing and planned mechanisms for improving the integration of Department of Defense and Department of Energy nonproliferation activities with those of other Federal departments and agencies.

(c) **COORDINATION WITH OTHER AGENCIES.**—The report required by subsection (a) shall, for purposes of subsection (b)(5), be coordinated with the heads of other appropriate departments and agencies.

(d) **SUBMISSION OF REPORT.**—(1) The report required by subsection (a) shall be submitted—

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

(B) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.¹

(2) The report shall be submitted not later than 180 days after the date of enactment of this Act and shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1504. NONPROLIFERATION TECHNOLOGY INITIATIVE.

(a) **FUNDS FOR DEPARTMENT OF DEFENSE ACTIVITIES.**—

(1) Of the amount appropriated pursuant to section 103(3) for Other Procurement, Air Force, \$5,000,000 shall be available for the AFTAC Chem/Biological Collection/Processing program.

(2) Of the amount appropriated pursuant to section 201(3) for Research, Development, Test, and Evaluation, Air Force, \$6,500,000 shall be available for the Joint Seismic Program.

(3) Of the amount appropriated pursuant to section 201(4) for Research, Development, Test, and Evaluation, Defense Agencies—

(A) \$11,600,000 shall be available for LIDAR,

(B) \$5,000,000 shall be available for Seismic programs of the Defense Advanced Research Projects Agency, and

(C) \$15,000,000 shall be available for Nuclear Proliferation Detection Technology programs of the Defense Advanced Research Projects Agency.

(b) **FUNDS FOR DEPARTMENT OF ENERGY ACTIVITIES.**—Of the amount appropriated pursuant to section 3104(a)(2) for Verification and Control Technologies, \$86,000,000 shall be available for nuclear nonproliferation detection technologies and activities. Of such

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

amount, not more than \$30,000,000 may be obligated until the report required by section 1503 is submitted.

SEC. 1505.² INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section,³ the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

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

(1) Activities carried out by international organizations⁴ that are designed to ensure more effective safeguards against⁵ proliferation and more effective⁶ verification of compliance with the international agreements on nonproliferation.⁷

(2) Activities of the Department of Defense⁸ in support of the United Nations Special Commission on Iraq (or any successor organization).⁹

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

(4) Efforts to improve international cooperative monitoring of nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing.¹⁰

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

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

²22 U.S.C. 5859a.

³Sec. 1602(a) of Public Law 103-160 (107 Stat. 1843) struck out “fiscal year 1993” and inserted in lieu thereof “fiscal year 1994”. Sec. 1501(a)(1) of Public Law 103-337 (108 Stat. 2914) further extended this initiative to include FY 1995. Sec. 1403(a)(1) of Public Law 104-106 (110 Stat. 489) struck out “during fiscal years 1994 and 1995”.

⁴Sec. 1501(b)(1)(A) of Public Law 103-337 (108 Stat. 2914) struck out “the International Atomic Energy Agency (IAEA)” and inserted in lieu thereof “international organizations”.

⁵Sec. 1501(b)(1)(B) of Public Law 103-337 (108 Stat. 2914) struck out “nuclear” before “proliferation”.

⁶Sec. 1501(b)(1)(C) of Public Law 103-337 (108 Stat. 2914) struck out “aggressive” and inserted in lieu thereof “effective”.

⁷Sec. 1501(b)(1)(D) of Public Law 103-337 (108 Stat. 2914) struck out “Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.”, and inserted in lieu thereof “international agreements on nonproliferation”.

⁸Sec. 1403(b)(1) of Public Law 104-106 (110 Stat. 489) struck out “On-Site Inspection Agency” and inserted in lieu thereof “Department of Defense”.

⁹Sec. 9110(e) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1929), provided the following transfer of funds: “* * * *Provided further*, That up to \$20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.”

Sec. 1505(c)(1) of Public Law 106-65 (113 Stat. 808) inserted “(or any successor organization)”.

¹⁰Sec. 1501(b)(2) of Public Law 103-337 (108 Stat. 2914) struck out “nuclear proliferation through joint technical projects and improved intelligence sharing” and inserted in lieu thereof “nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing”.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted as discretionary spending in the national defense budget function (function 050).¹¹

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

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

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

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

(d)¹² SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.¹³ Funds provided as assistance under this section for a fiscal year¹⁴ may also be derived¹⁵ from balances in working capital accounts of the Department of Defense.

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

(3)¹⁶ The total amount of the assistance provided in the form of funds under this section, including funds used for activities of the

¹¹Sec. 1403(b)(2) of Public Law 104-106 (110 Stat. 490) struck out “will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” and inserted in lieu thereof “will be counted as discretionary spending in the national defense budget function (function 050).”

¹²Sec. 1602(c) of Public Law 103-160 (107 Stat. 1843) struck out para. (4) of subsec. (d), which had read as follows:

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

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

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

¹³Sec. 1403(c)(1)(A) of Public Law 104-106 (110 Stat. 490) struck out “for fiscal year 1994 shall be derived from amounts made available to the Department of Defense for fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995.”, and inserted in lieu thereof “for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.”

Previously, sec. 1501(c)(1)(A) of Public Law 103-337 (108 Stat. 2914) inserted “for fiscal year 1994” after “under this section”.

¹⁴Sec. 1403(c)(1)(B) of Public Law 104-106 (110 Stat. 490) struck out “referred to in this paragraph” after “for a fiscal year”.

¹⁵Sec. 1501(c)(1)(B) of Public Law 103-337 (108 Stat. 2914) struck out “fiscal year 1994 or” and inserted in lieu thereof “fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived”.

¹⁶Sec. 1602(b) of Public Law 103-160 (107 Stat. 1843) struck out “\$40,000,000” and inserted in lieu thereof “\$25,000,000, including funds used for activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq”; and struck out the section sentence of this para., which read as follows: “Of such amount, not more than \$20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.”

Sec. 1501(c)(2) of Public Law 103-337 (108 Stat. 2914) inserted “for fiscal year 1994 and \$20,000,000 for fiscal year 1995” after “\$25,000,000”.

Sec. 1403(c)(2)(A) of Public Law 104-106 (110 Stat. 490) struck out “may not exceed \$25,000,000 for fiscal year 1994 or \$20,000,000 for fiscal year 1995”. Sec. 1403(c)(2)(B) of that

Department of Defense¹⁷ in support of the United Nations Special Commission on Iraq, may not exceed \$25,000,000 for fiscal year 1994, \$20,000,000 for fiscal year 1995, \$15,000,000 for fiscal year 1996, \$15,000,000 for fiscal year 1997; or \$15,000,000 for fiscal year 1998.

(4)¹⁸ (A) In the event of a significant unforeseen development related to the activities of the United Nations Special commission on Iraq (or any successor organization)¹⁹ for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation.²⁰

(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notices in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year.²¹ However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notices under this subparagraph shall include a description of the de-

Act inserted at the end of the same sentence, "may not exceed \$25,000,000 for fiscal year 1994, \$20,000,000 for fiscal year 1995, or \$15,000,000 for fiscal year 1996".

Sec. 1301(a)(1) of Public Law 104-201 (110 Stat. 2700) struck out "or" after "fiscal year 1995," and inserted "or \$15,000,000 for fiscal year 1997" at the end of the sentence.

Sec. 1308 of Public Law 105-85 (111 Stat. 1956) struck out "or" after "fiscal year 1996" and added ", or \$15,000,000 for fiscal year 1998" at the end of the para.

Sec. 1531(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2180) provided the following:

"(a) AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed \$15,000,000."

Sec. 1505(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 808) provided the following:

"(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2000.—The total amount of the assistance for fiscal year 2000 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000."

Sec. 1201(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654) provided the following:

"(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001.—The total amount of the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000."

¹⁷Sec. 1403(b)(1) of Public Law 104-106 (110 Stat. 489) struck out "On-Site Inspection Agency" and inserted in lieu thereof "Department of Defense".

¹⁸Sec. 1301(b) of Public Law 104-201 (110 Stat. 2700) added para. (4).

¹⁹Sec. 1505(c)(2)(A)(i) of Public Law 106-65 (113 Stat. 808) inserted "(or any successor organization)".

²⁰Sec. 1505(c)(2)(A)(ii) of Public Law 106-65 (113 Stat. 808) struck out "the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year." and inserted in lieu thereof "the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation."

²¹Sec. 1505(c)(2)(B) of Public Law 106-65 (113 Stat. 808) struck out "under paragraph (3)" at this point.

velopment, the amount of assistance provided or to be provided, and the source of the funds for that assistance.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect,²² the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

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

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

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

(2) The committees of Congress to which reports under paragraph (1)²³ are to be transmitted are—

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

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.²⁴

(f)²⁵ TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 2001.

²² Sec. 1602(a) of Public Law 103-160 (107 Stat. 1843) struck out “fiscal year 1993” and inserted in lieu thereof “fiscal year 1994”. Sec. 1403(a)(2) of Public Law 104-106 (110 Stat. 489) subsequently struck out “fiscal years 1994 and 1995” and inserted in lieu thereof “of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect”.

²³ Formerly read, as amended by Public Law 103-160, “under paragraph (1) and under subsection (d)(4)”. Sec. 1070(c)(1) of Public Law 103-337 (108 Stat. 2857) struck out “and under subsection (d)(4)”, effective October 23, 1992.

²⁴ Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

Subsequently, sec. 1067(8) of Public Law 106-65 (113 Stat. 774) struck out “Committee on National Security” and inserted in lieu thereof “Committee on Armed Services”.

²⁵ Sec. 1403(a)(3) of Public Law 104-106 (110 Stat. 489) added subsec. (f), to provide for this authority through fiscal year 1996. Sec. 1301(a)(2) of Public Law 104-201 (110 Stat. 2700) struck out “1996” and inserted in lieu thereof “1997”. Sec. 1308(2) of Public Law 105-85 (111 Stat. 1956) extended the authority through fiscal year 1998. Sec. 1531(b) of Public Law 105-261 (112 Stat. 2180) extended the authority through fiscal year 1999. Sec. 1505(b) of Public Law 106-65 (113 Stat. 808) extended the authority through fiscal year 2000. Sec. 1201(b) of Public Law 106-398 (114 Stat. 1654) extended the authority through fiscal year 2001.

k. Iran-Iraq Arms Nonproliferation Act of 1992

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

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

SEC. 1601.¹ SHORT TITLE.

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

SEC. 1602. UNITED STATES POLICY.

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

(b) **SANCTIONS.**—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act,² and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

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

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

¹50 U.S.C. 1701 note. Popularly referred to as the “Gore-McCain Act”. In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685).

²For text of the Foreign Assistance Act of 1961 (Public Law 87-195) and chapter 7 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

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

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

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or⁴ to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

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

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

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

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or⁵ to acquire destabilizing numbers and types of advanced conventional weapons, then—

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

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

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

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

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

³For text, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

⁴Sec. 1408(a) of Public Law 104-106 (110 Stat. 494) inserted “to acquire chemical, biological, or nuclear weapons or” before “to acquire”.

⁵Sec. 1408(b) of Public Law 104-106 (110 Stat. 494) inserted “to acquire chemical, biological, or nuclear weapons or” before “to acquire”.

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

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

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

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

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

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

SEC. 1606. WAIVER.

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives⁶ that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

(a) **ANNUAL REPORT.**—Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Serv-

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

ices and Foreign Affairs of the House of Representatives⁶ a report detailing—

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

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

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives⁶ a report—

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

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

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

SEC. 1608. DEFINITIONS.

For purposes of this title:

(1) The term “advanced conventional weapons” includes—

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

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

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

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

(3) The term “goods or technology” means—

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

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

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

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

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

(7) The term “United States assistance” means—

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

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

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

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

* * * * *

⁷Sec. 1408(c) of Public Law 104-106 (110 Stat. 494) amended and restated subpara. (A), which formerly read as follows:

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

“(i) urgent humanitarian assistance or medicine, and

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

**I. Chemical and Biological Weapons Control and Warfare
Elimination Act of 1991**

**Title III of Public Law 102-182 [H.R. 1724], 105 Stat. 1222, approved
December 4, 1991**

AN ACT To provide for the termination of the application of title IV of the Trade
Act of 1974 to Czechoslovakia and Hungary.

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

* * * * *

**TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND
BIOLOGICAL WEAPONS**

SEC. 301.¹ SHORT TITLE.

This title may be cited as the “Chemical and Biological Weapons
Control and Warfare Elimination Act of 1991”.

SEC. 302.² PURPOSES.

The purposes of this title are—

- (1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;
- (2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;
- (3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and
- (4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303.³ MULTILATERAL EFFORTS.

(a) **MULTILATERAL CONTROLS ON PROLIFERATION.**—It is the policy of the United States to seek multilaterally coordinated efforts with

¹ 22 U.S.C. 5601 note. See also title XVII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 50 U.S.C. 1522-1524) relating to chemical and biological weapons defense, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

² 22 U.S.C. 5601.

³ 22 U.S.C. 5602.

other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing “appropriate and effective” sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group’s objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group’s domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group’s coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a “denial” list of firms and individuals who violate the Australia Group’s export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304.⁴ UNITED STATES EXPORT CONTROLS.

(a) **IN GENERAL.**—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology, that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b)⁵ **EXPORT ADMINISTRATION ACT.**—* * *

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a)⁶ **AMENDMENT TO EXPORT ADMINISTRATION ACT.**—* * *

(b)⁷ **AMENDMENT TO ARMS EXPORT CONTROL ACT.**—* * *

SEC. 306.^{8,9} DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) **DETERMINATION BY THE PRESIDENT.**—

(1) **WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.**—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by

⁴22 U.S.C. 5603.

⁵Subsec. (b) amended sec. 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405); see *Legislation on Foreign Relations Through 2000*, vol. III.

⁶Subsec. (a) added a new sec. 11C to the Export Administration Act of 1979, relating to chemical and biological weapons proliferation sanctions; see *Legislation on Foreign Relations Through 2000*, vol. III.

⁷Subsec. (b) added a new chapter 8 to the Arms Export Control Act; see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁸22 U.S.C. 5604.

⁹Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

“**Section 1. Chemical and Biological Weapons Proliferation and Use Sanctions.** * * *

“(b) *Chemical and Biological Weapons Use.* The authority and duties vested in me by sections 306-308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604-5606) are delegated to the Secretary of State, except that:

“(1) The authority and duties vested in me to restrict certain imports as provided in section 307(b)(2)(D), pursuant to a determination made by the Secretary of State under section 307(b)(1), are delegated to the Secretary of the Treasury.

“(2) The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 307(d)(1)(ii).

“(3) The authority and duties vested in me to prohibit certain exports as provided in section 307(a)(5) and section 307(b)(2)(C), pursuant to a determination made by the Secretary of State under section 306(a)(1) and section 307(b)(1), are delegated to the Secretary of Commerce.

“(c) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.”

the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs¹⁰ of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs¹⁰ of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This

¹⁰ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307.^{9, 11} SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and

¹¹ 22 U.S.C. 5605.

is not using lethal chemical or biological weapons against its own nationals, then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as

may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁰ of the House of Rep-

representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and di-

rect threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) **SANCTIONS APPLIED TO EXISTING CONTRACTS.**—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308.^{9, 12} PRESIDENTIAL REPORTING REQUIREMENTS.

(a) **REPORTS TO CONGRESS.**—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) **PROTECTION OF CLASSIFIED INFORMATION.**—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.

(a) **REPEAL.**—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138), and the amendments made by that title, are repealed.

(b) **REFERENCES TO DATE OF ENACTMENT.**—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the “date of the enactment of this section”,

¹² 22 U.S.C. 5606.

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the “date of the enactment of this section”, and

(3) in section 306(a)(1) of this Act to the “date of the enactment of this title”,
shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).¹³

¹³ Enacted October 28, 1991.

**m. Executive Orders Concerning Nonproliferation of
Weapons of Mass Destruction**

**(1) Renunciation of Certain Uses in War of Chemical
Herbicides and Riot Control Agents¹**

Executive Order 11850, April 8, 1975, 40 F.R. 16187, 50 U.S.C. 1511 note

The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

(a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.

(d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

I have determined that the provisions and procedures prescribed by this Order are necessary to ensure proper implementation and observance of such national policy.

Now, Therefore, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States and as Commander-in-Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

¹See also texts of the Geneva Protocol of 1925 and the Biological Weapons Convention, *Legislation on Foreign Relations*, vol. V, sec. F.

Sec. 2. The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States.

NOTE.—Former Executive Order 11902 regarding Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment was repealed by Executive Order 12058.

(2) Administration of Proliferation Sanctions, Middle East Arms Control, and Related Congressional Reporting Requirements

Executive Order 12851, June 11, 1993, 58 F.R. 33181, 22 U.S.C. 2797 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code; sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510 (50 U.S.C. App. 2402 note, 2405, 2410b; 22 U.S.C. 2797–2797c); sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138; sections 305–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, Public Law 102–182 (50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Public Law 102–190; and section 1364 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484, I hereby order as follows:

Section 1. *Chemical and Biological Weapons Proliferation and Use Sanctions.* (a) *Chemical and Biological Weapons Proliferation.* The authority and duties vested in me by section 81 of the Arms Export Control Act, as amended (“AECA”) (22 U.S.C. 2798), and section 11C of the Export Administration Act of 1979, as amended (“EAA”) (50 U.S.C. App. 2410c), are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me to deny certain United States Government contracts, as provided in section 81(c)(1)(A) of the AECA and section 11C(c)(1)(A) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, as well as the authority and duties vested in me to make the determinations provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA are delegated to the Secretary of Defense. The Secretary of Defense shall notify the Secretary of the Treasury of determinations made pursuant to section 81(c)(2) of the AECA and section 11(c)(2) of the EAA.

(2) The authority and duties vested in me to prohibit certain imports as provided in section 81(c)(1)(B) of the AECA and section 11C(c)(1)(B) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, and the obligation to implement the exceptions provided in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA, insofar as the exceptions affect imports of goods into the United States, are delegated to the Secretary of the Treasury.

(b) *Chemical and Biological Weapons Use.* The authority and duties vested in me by sections 306–308 of the Chemical and Biologi-

cal Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604–5606) are delegated to the Secretary of States, except that:

(1) The authority and duties vested in me to restrict certain imports as provided in section 307(b)(2)(D), pursuant to a determination made by the Secretary of States under section 307(b)(1), are delegated to the Secretary of the Treasury.

(2) The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 307(d)(1)(A)(ii).

(3) The authority and duties vested in me to prohibit certain exports as provided in section 307(a)(5) and section 307(b)(2)(C), pursuant to a determination made by the Secretary of State under section 306(a)(1) and section 307(b)(1), are delegated to the Secretary of Commerce.

(c) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.

Sec. 2. Missile Proliferation Sanctions. (a) *Arms Export Control Act.* The authority and duties vested in me by sections 72–73 of the AECA (22 U.S.C. 2797a–2797b) are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me by section 72(a)(1) to make determinations with respect to violations by United States persons of the EAA are delegated to the Secretary of Commerce.

(2) The authority and duties vested in me to deny certain United States Government contracts as provided in sections 73(a)(2)(A)(i) and 73(a)(2)(B)(i), pursuant to a determination made by the Secretary of State under section 73(a)(1), as well as the authority and duties vested in me to make the finding provided in sections 72(c), 73(f), and 73(g)(1), are delegated to the Secretary of Defense. The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, any waivers based upon findings made pursuant to sections 72(c) and 73(f).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 73(a)(2)(C), pursuant to a determination made by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 73(g), are delegated to the Secretary of the Treasury.

(b) *Export Administration Act.* The authority and duties vested in me by section 11B of the EAA (50 U.S.C. App. 2410b) are delegated to the Secretary of Commerce, except that:

(1) The authority and duties vested in me by sections 11B(a)(1)(A) (insofar as such section authorizes determinations with respect to violations by United States persons of the AECA), 11B(b)(1) (insofar as such section authorizes deter-

minations regarding activities by foreign persons), and 11B(b)(5) are delegated to the Secretary of State.

(2) The authority and duties vested in me to make the findings provided in sections 11B(a)(3), 11B(b)(6), and 11B(b)(7)(A) are delegated to the Secretary of Defense. The Secretary of Commerce shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(a)(3). The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(b)(6).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 11B(b)(1), pursuant to a determination by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 11B(b)(7), are delegated to the Secretary of the Treasury.

(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.

Sec. 3. *Arms Control in the Middle East.* The certification and reporting functions vested in me by sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

Sec. 4. *China and Weapons Proliferation.* The reporting functions regarding China and weapons proliferation vested in me by sections 303(a)(2) and 324 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

Sec. 5. *Arrow Tactical Anti-Missile Program.* The authority and duties vested in me to make certain certifications as provided by section 241(b)(3)(C) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 are delegated to the Secretary of State.

Sec. 6. *Delegations.* The functions delegated herein may be re-delegated as appropriate. Regulations necessary to carry out the functions delegated herein may be issued as appropriate.

Sec. 7. *Priority.* This order supercedes the Memorandum of the President, "Delegation of Authority Regarding Missile Technology Proliferation," June 25, 1991. To the extent that this order is incon-

sistent with any provisions of any prior Executive order or Presidential memorandum, this order shall control.

(3) Proliferation of Weapons of Mass Destruction

Executive Order 12938, November 14, 1994, 59 F.R. 59099, 50 U.S.C. 1701 note; amended by Executive Order 13094, July 28, 1998, 63 F.R. 40803; and by Executive Order 13128, June 25, 1999, 64 F.R. 34701

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), Executive Orders Nos. 12851 and 12924, and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the proliferation of nuclear, biological, and chemical weapons (“weapons of mass destruction”) and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.¹

Accordingly, I hereby order:

Section 1. *International Negotiations.* It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of weapons of mass destruction and the means of delivering such weapons. Accordingly, the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of weapons of mass destruction and their means of delivery.

Sec. 2. *Imposition of Controls.* As provided herein, the Secretary of State and the Secretary of Commerce shall use their respective authorities, including the Arms Export Control Act and the International Emergency Economic Powers Act, to control any exports, to the extent they are not already controlled by the Department of Energy and the Nuclear Regulatory Commission, that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

Sec. 3. *Department of Commerce Controls.* (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to the Secretary’s export jurisdiction that the Secretary of Commerce determines, in consultation with the Secretary of State, the Secretary of Defense, and other appropriate officials,

¹The President continued this national emergency in a notice of November 8, 1995 (60 F.R. 57137); a notice of November 12, 1996 (61 F.R. 58309); a notice of November 12, 1997 (62 F.R. 60993); a notice of November 12, 1998 (63 F.R. 63589); a notice of November 10, 1999 (64 F.R. 61767); a notice of November 9, 2000 (65 F.R. 68063); and a notice of November 9, 2001 (66 F.R. 56965).

would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) of this section will not apply to exports relating to a particular category of weapons of mass destruction (i.e., nuclear, chemical, or biological weapons) if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of that category of weapons of mass destruction-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to that category of goods and technology, or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

(d) The Secretary of Commerce, in consultation with the Secretary of State, shall take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction or their means of delivery, as provided in the Export Administration Regulations, set forth in Title 15, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive.

(e)² The Secretary of Commerce shall impose and enforce such restrictions on the importation of chemicals into the United States as may be necessary to carry out the requirements of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

Sec. 4.³ *Measures Against Foreign Persons.*

(a) *Determination by Secretary of State; Imposition of Measures.* Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where appli-

²Sec. 8 of Executive Order 13128 (64 F.R. 34704) added subsec. (e).

³Sec. 1(a) of Executive Order 13094 (63 F.R. 40803) amended and restated sec. 4. It previously read as follows:

Sec. 4. *Sanctions Against Foreign Persons.* (a) In addition to the sanctions imposed on foreign persons as provided in the National Defense Authorization Act for Fiscal Year 1991 and the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, sanctions also shall be imposed on a foreign person with respect to chemical and biological weapons proliferation if the Secretary of State determines that the foreign person on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, knowingly and materially contributed to the efforts of any foreign country, project, or entity to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

“(b) No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods or services from any foreign person described in subsection (a) of this section. The Secretary of the Treasury shall prohibit the importation into the United States of products produced by that foreign person.

“(c) Sanctions pursuant to this section may be terminated or not imposed against foreign persons if the Secretary of States determines that there is reliable evidence that the foreign person concerned has ceased all activities referred to in subsection (a).

“(d) The Secretary of State and the Secretary of the Treasury may provide appropriate exemptions for procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements, sole source suppliers, spare parts, components, routine servicing and maintenance of products, and medical and humanitarian items. They may provide exemptions for contracts in existence on the date of this order under appropriate circumstances.”

cable, if the Secretary of State determines that a foreign person, on or after November 16, 1990, the effective date of executive Order 12735, the predecessor order to Executive Order 12938, has materially contributed or attempted to contribute materially to the efforts of any foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State in consultation with the implementing agency and other relevant agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities.

(b) *Procurement Ban.* No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from any foreign person described in subsection (a) of this section.

(c) *Assistance Ban.* No department or agency of the United States Government may provide any assistance to any foreign person described in subsection (a) of this section, and no such foreign person shall be eligible to participate in any assistance program of the United States Government.

(d) *Import Ban.* The Secretary of the Treasury shall prohibit the importation into the United States of goods, technology, or services produced or provided by any foreign person described in subsection (a) of this section, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(e) *Termination.* Measures pursuant to this section may be terminated against a foreign person if the Secretary of State determines that there is reliable evidence that such foreign person has ceased all activities referred to in subsection (a) of this section.

Exceptions. Departments and agencies of the United States Government, acting in consultation with the Secretary of State, may, by license, regulation, order, directive, exception, or otherwise, provide for:

(i) Procurement contracts necessary to meet U.S. operational military requirements of requirements under defense production agreements; intelligence requirements; sole source suppliers, spare parts, components, routine servicing and maintenance of products for the United States Government; and medical and humanitarian items; and

(ii) Performance pursuant to contracts in force on the effective date of this order under appropriate circumstances.

Sec. 5. Sanctions Against Foreign Countries. (a) In addition to the sanctions imposed on foreign countries as provided in the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, sanctions also shall be imposed on a foreign country as specified in subsection (b) of this section, if the Secretary of State determines that the foreign country has, on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, (1) used chemical or biological weapons in violation of international law; (2) made substantial prepara-

tions to use chemical or biological weapons in violation of international law; or (3) developed, produced, stockpiled, or otherwise acquired chemical or biological weapons in violation of international law.

(b) The following sanctions shall be imposed on any foreign country identified in subsection (a)(1) of this section unless the Secretary of State determines, on grounds of significant foreign policy or national security, that any individual sanction should not be applied. The sanctions specified in this section may be made applicable to the countries identified in subsections (a)(2) or (a)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (b)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) *Foreign Assistance.* No assistance shall be provided to that country under the Foreign Assistance Act of 1961, or any successor act, or the Arms Export Control Act, other than assistance that is intended to benefit the people of that country directly and that is not channeled through governmental agencies or entities of that country.

(2) *Multilateral Development Bank Assistance.* The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) *Denial of Credit or Other Financial Assistance.* The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) *Prohibition of Arms Sales.* The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) *Export of National Security-Sensitive Goods and Technology.* No exports shall be permitted of any goods or technologies controlled for national security reasons under the Export Administration Regulations.

(6) *Further Export Restrictions.* The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) *Import Restrictions.* Restrictions shall be imposed on the importation into the United States of articles (that may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(8) *Landing Rights.* At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10))).

Sec. 6. Duration. Any sanctions imposed pursuant to sections 4 or 5 of this order shall remain in force until the Secretary of State

determines that lifting any sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4 of this order, until the Secretary has made the determination under section 4(e).⁴

Sec. 7. *Implementation.* The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5 of this order, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads and shall be implemented in accordance with procedures established pursuant to Executive Order No. 12851. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

Sec. 8. *Preservation of Authorities.* Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of the International Emergency Economic Powers Act, the Export Administration Act, the Arms Export Control Act, the Nuclear Non-proliferation Act, Executive Order No. 12730 of September 30, 1990, Executive Order No. 12735 of November 16, 1990, Executive Order No. 12924 of August 18, 1994, and Executive Order No. 12930 of September 29, 1994.

Sec. 9. *Judicial Review.* This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by party against the United States, its agencies, officers, or any other person.

Sec. 10. *Revocation of Executive Orders Nos. 12735 and 12930.* Executive Orders No. 12735 of November 16, 1990, and Executive Order No. 12930 of September 29, 1994, are hereby revoked.

Sec. 11. *Effective Date.* This order is effective immediately.

This order shall be transmitted to the Congress and published in the Federal Register.

⁴Sec. 1(b) of Executive Order 13094 (63 F.R. 40804) struck out "4(c)" and inserted in lieu thereof "4(e)".

(4) Implementation of the Chemical Weapons Convention and the Chemical Weapons Convention Implementation Act

Executive Order 13128, June 25, 1999, 64 F.R. 34703

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Chemical Weapons Convention Implementation Act of 1998 (as enacted in Division I of Public Law 105-277) (the Act), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the "Convention"), it is hereby ordered as follows:

Section 1. The Department of State shall be the United States National Authority (the "USNA") for purposes of the Act and the Convention.

Sec. 2. The USNA shall coordinate the implementation of the provisions of the Act and the Convention with an interagency group consisting of the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Energy, and the heads of such other agencies or departments, or their designees, I may consider necessary or advisable.

Sec. 3. The Departments of State and Commerce, and other agencies as appropriate, each shall issue, amend, or revise regulations, orders, or directives as necessary to implement the Act and U.S. obligation under Article VI and related provisions of the Convention. Regulations under section 401(a) of the Act shall be issued by the Department of Commerce by a date specified by the USNA, which shall review and approve these regulations, in coordination with the interagency group designated in section 2 of this order, prior to their issuance.

Sec. 4. The Secretary of Commerce is authorized:

(a) to obtain and execute warrants pursuant to section 305 of the Act for the purposes of conducting inspections of facilities subject to the regulations issued by the Department of Commerce pursuant to section 3 of this order;

(b) to suspend or revoke export privileges pursuant to section 211 of the Act; and

(c) to carry out all functions with respect to proceedings under section 501(a) of the Act and to issue regulations with respect thereto, except for those functions that the Act specifies are to be performed by the Secretary of State or the USNA.

Sec. 5. The Departments of State, Defense, Commerce, and Energy, and other agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in

the Act and are necessary to implement the provisions of the Convention and the Act.

Sec. 6. The Departments of State, Defense, Commerce, and Energy, and other agencies, as appropriate, are authorized to provide assistance to facilities not owned or operated by the U.S. Government, or contracted for use by or for the U.S. Government, in meeting reporting requirements and in preparing the facilities for possible inspection pursuant to the Convention.

Sec. 7. The USNA, in coordination with the interagency group designated in section 2 of this order, is authorized to determine whether the disclosure of confidential business information pursuant to section 404(c) of the Act is in the national interest. Disclosure will not be permitted if contrary to national security or law enforcement needs.

Sec. 8. In order to take additional steps with respect to the proliferation of weapons of mass destruction and means of delivering them and the national emergency described and declared in Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 30, 1998, section 3 of Executive Order 12938, as amended, is amended, to add a new subsection (e) to read as follows: * * *

Sec. 9. Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, involving or revealing a possible violation of 18 U.S.C. section 229 shall be referred to the Federal Bureau of Investigation (FBI), which shall coordinate with the referring agency and other appropriate agencies. The FBI shall timely notify the referring agency and other appropriate agencies of any action it takes on such referrals.

Sec. 10. Nothing in this order shall create and right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 11. (a) This order shall take effect at 12:01 a.m. eastern daylight time, June 26, 1999.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

n. Nuclear Non-Proliferation Act of 1978 and Related Materials

(1) Nuclear Non-Proliferation Act of 1978

Partial text of Public Law 95-242 [H.R. 8638], 92 Stat. 120, approved March 10, 1978; as amended by Public Law 99-661 [National Defense Authorization Act for Fiscal Year 1987; S. 2638], 100 Stat. 3816, approved November 11, 1986; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-437 [U.S.C. Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-113 [H.R. 3194], 113 Stat. 1301, approved November 29, 1999

NOTE.—Sections of this Act that have been omitted amended the Atomic Energy Act of 1954. See the appropriate sections of the 1954 Act beginning on page 1819 for the text of these omitted sections.

AN ACT To provide for more efficient and effective control over the proliferation of nuclear explosive capability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Nuclear Non-Proliferation Act of 1978.”

STATEMENT OF POLICY

SEC. 2.¹ The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation, including the establishment of common international sanctions;

¹ 22 U.S.C. 3201.

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses;

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date;² and

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production and, in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection.

STATEMENT OF PURPOSE

SEC. 3.³ It is the purpose of this Act to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

DEFINITIONS

SEC. 4.⁴ (a) As used in this Act, the term—

(1) “Commission” means the Nuclear Regulatory Commission;

(2) “IAEA” means International Atomic Energy Agency;

(3) “nuclear materials and equipment” means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to

²This policy was reiterated by Congress in sec. 507 of the International Development Cooperation Act of 1979 (Public Law 96-53; 93 Stat. 378) (see *Legislation on Foreign Relations Through 2001*, vol. I-A). Sec. 507(b), which was repealed in 1981, also called for a report (submitted to Congress on November 19, 1979) from the Secretary of State, on steps taken by the Department of State to encourage nations which are not parties to the treaty to become parties.

³22 U.S.C. 3202.

⁴22 U.S.C. 3203. Sec. 1225(e)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out para. (2), which referred to the Director of the Arms Control and Disarmament Agency, and renumbered the remaining para. as needed.

have significance for nuclear explosive purposes pursuant to subsection 109 b. of the 1954 Act;

(4) “physical security measures” means measures to reasonably ensure that source or special nuclear material will only be used for authorized purpose and to prevent theft and sabotage;

(5) “sensitive nuclear technology” means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

(6) “1954 Act” means the Atomic Energy Act of 1954, as amended; and

(8) “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons.⁵

(b) All other terms used in this Act not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974, and the Treaty.

TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

POLICY

SEC. 101.⁶ The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 161 of the 1954 Act or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs. The Commission shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

URANIUM ENRICHMENT CAPACITY

SEC. 102.⁷ The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission and the Secretary of State⁸ are directed to es-

⁵ See *Legislation on Foreign Relations*, vol. V, sec. L, for text of treaty.

⁶ 22 U.S.C. 3221.

⁷ 22 U.S.C. 3222.

⁸ Sec. 1225(e)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out “, the Secretary of State, and

establish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

REPORT

SEC. 103. The President shall promptly undertake a study to determine the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States nonproliferation objectives abroad. The President shall report to the Congress on the results of this study within twelve months after the date of enactment of this Act.

INTERNATIONAL UNDERTAKINGS

SEC. 104.⁹ (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy goals set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violation of the provisions of or for abrogation of such binding international undertakings.

the Director of the Arms Control and Disarmament Agency” and inserted in lieu thereof “and the Secretary of State”.

⁹ 22 U.S.C. 3223.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designated to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities under their de facto or de jure control, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f)(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization Act for the Department of Energy.

REEVALUATION OF NUCLEAR FUEL CYCLE

SEC. 105.¹⁰ The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear tech-

¹⁰22 U.S.C. 3224.

nology. The President shall, in the first report required by section 601, detail the progress of such international reevaluation.

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN
THE INTERNATIONAL SAFEGUARDS SYSTEM

POLICY

SEC. 201.¹¹ The United States is committed to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons, to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strengthen the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of sources of special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations of adherence to bilateral commitments applicable to such supply.

TRAINING PROGRAM

SEC. 202.¹² The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

¹¹ 22 U.S.C. 3241.

¹² 22 U.S.C. 3242.

NEGOTIATIONS

SEC. 203.¹³ The United States shall seek to negotiate with other nations and groups of nations to—

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities, and for recovering nuclear materials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

TITLE III—EXPORT ORGANIZATION AND CRITERIA

* * * * *

EXPORT LICENSING PROCEDURES

SEC. 304. (a)¹⁴ * * *

(b)¹⁵ Within one hundred and twenty days of the date of enactment of this Act, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c)¹⁵ The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

¹³ 22 U.S.C. 3243.

¹⁴ Subsec. (a) added a new sec. 126 to the 1954 Act regarding export licensing procedures.

¹⁵ 42 U.S.C. 2155a.

(d)¹⁶ Within sixty days of the date of enactment of this Act, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy and the Secretary of Defense,¹⁷ promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgment are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 127 of the 1954 Act taking into consideration variations in risks to security as appropriate.

* * * * *

COMPONENT AND OTHER PARTS OF FACILITIES

SEC. 309. (a)¹⁸ * * *

(b)¹⁹ The Commission, not later than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of subsections b. and c. of section 109 of the 1954 Act. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, and the Department of Commerce.²⁰

(c)¹⁹ The President, within not more than one hundred and twenty days after the date of enactment of this Act, shall publish procedures regarding the control by the Department of Commerce, over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations²¹ by the Department of Commerce with the Department of State,²² the Commission, the Department of Energy, and the Department of Defense.

(d) The amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments.

TITLE IV—NEGOTIATION OF FURTHER EXPORT CONTROLS

* * * * *

¹⁶ 42 U.S.C. 2156a.

¹⁷ Sec. 1225(e)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out "the Secretary of Defense, and the Director," and inserted in lieu thereof "and the Secretary of Defense,".

¹⁸ Subsec. (a) amended sec. 109 of the 1954 Act.

¹⁹ 42 U.S.C. 2139a. The procedures referred to in subsection (c) were issued on June 1, 1978. For text, see *Legislation on Foreign Relations*, vol. V, section L.

²⁰ Sec. 1225(e)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out "the Department of Commerce, and the Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Department of Commerce".

²¹ Sec. 714(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 498), struck out ", as required," following "prior consultations".

²² Sec. 1225(e)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out "the Arms Control and Disarmament Agency," at this point.

ADDITIONAL REQUIREMENTS

SEC. 402.²³ (a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approvals of the United States for such enrichment: *Provided*, That the procedures governing such approval shall be identical to those set forth for the approval of proposed subsequent arrangements under section 131 of the 1954 Act, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further*, That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after the date of enactment of this Act, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

PEACEFUL NUCLEAR ACTIVITIES

SEC. 403.²⁴ The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosives devices for any purpose, except as permitted by Article V, the Treaty;

²³ 42 U.S.C. 2153a. The procedures mentioned in the first proviso were issued June 1, 1978. For text, see *Legislation on Foreign Relations*, vol. V, section L.

²⁴ 42 U.S.C. 2153b.

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measure will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

(b)(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in paragraph aa. (2) of section 11 of the 1954 Act) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

RENEGOTIATION OF AGREEMENTS FOR COOPERATION

SEC. 404.²⁵ (a) The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on the date of enactment of this Act, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 123 a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the United States may have under any agreement for cooperation in force on the date of enactment of this Act.

(b) The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act and the export policy goals set forth in section 401 to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

(c) If the President proposed enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) If the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs²⁶ of the House of Representatives, after reviewing the President's annual report or any proposed legis-

²⁵ 42 U.S.C. 2153c.

²⁶ Sec. 15(g) of Public Law 103-437 (108 Stat. 4593) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

lation, determines that it is in the interest of the United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection 130 b. through g. of the 1954 Act.

AUTHORITY TO CONTINUE AGREEMENTS

SEC. 405.²⁷ (a) The amendments to section 123 of the 1954 Act made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act.

Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

REVIEW

SEC. 406.²⁸ No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement, or any annexes thereto,²⁹ called for in this Act or in the 1954 Act.

PROTECTION OF THE ENVIRONMENT

SEC. 407.³⁰ The President shall endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 Act for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

TITLE V—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

POLICY; REPORT

SEC. 501.³¹ The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources, to cooperate with both developing and industrialized nations in protecting the international environment

²⁷ 42 U.S.C. 2153d.

²⁸ 42 U.S.C. 2160a.

²⁹ Sec. 1225(e)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) inserted “, or any annexes thereto,” after “Statement”.

³⁰ 42 U.S.C. 2153e. Sec. 1913 of Public Law 95-630 (92 Stat. 3727) provided:

“SEC. 1913. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled ‘Protection of the Environment’ which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.”

³¹ 42 U.S.C. 3261.

from contamination arising from both nuclear and non-nuclear energy activities, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and groups of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

PROGRAMS

SEC. 502.³² (a) The United States shall initiate a program, consistent with the aims of section 501, to cooperate with developing countries for the purpose of—

- (1) meeting the energy needs required for the development of such countries;
- (2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and
- (3) expanding the energy alternatives to such countries.

(b) Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and co-operative projects in resource exploration and production, training, research and development.

(c) As an integral part of such program, the Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

(d) For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization Acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

(e) Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this title with other related activities of the United States conducted abroad, including the programs authorized by sections 103(c), 106(a)(2), and 119 of the Foreign Assistance Act of 1961.³³

³² 42 U.S.C. 3262.

³³ For text, see *Legislation on Foreign Relations Through 2001*, vol. I-A. Sec. 119 of the Foreign Assistance Act of 1961 was repealed in 1980.

REPORT

SEC. 503.³⁴ Not later than twelve months after the date of enactment of this Act, the President shall report to the Congress on the feasibility of expanding the cooperative activities established pursuant to section 502(c) into an international cooperative effort to include a scientific peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of such countries through the search for and utilization of indigenous energy resources and the application of suitable technology, including the widespread utilization of renewable and unconventional energy technologies. Such report shall also include a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage the utilization of such technologies in developing countries.

TITLE VI—EXECUTIVE REPORTING

REPORTS OF THE PRESIDENT

SEC. 601.³⁵ (a) The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 104 and 105 of this Act;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 403 of this Act;

(C) encouraging non-nuclear-weapon states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 404(a) of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are

³⁴ 42 U.S.C. 3262 note.

³⁵ 22 U.S.C. 3281.

necessary in his judgment to achieve the non-proliferation policy of the United States;

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices;

(4) an assessment of whether any of the policies set forth in this Act have, on balance, been counterproductive from the standpoint of preventing proliferation; and

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies.

(b) In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 123 of the 1954 Act, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

ADDITIONAL REPORTS

SEC. 602.³⁶ (a) The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detailed analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

(c)³⁷ (1) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Com-

³⁶ 22 U.S.C. 3282.

³⁷ Sec. 1131 of the National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2 of title XI of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113 (113 Stat. 1501) amended and restated subsec. (c). It formerly read as follows:

“(c) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the

mission, and, with regard to subparagraph (B), the Director of Central Intelligence, shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to—

(A) their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

(2) For the purposes of this subsection with respect to paragraph (1)(B), the phrase “fully and currently informed” means the transmittal of credible information not later than 60 days after becoming aware of the activity concerned.

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House International Relations Committee.

(e) Three years after enactment of this Act, the Comptroller General shall complete a study and report to the Congress on the implementation and impact of this Act on the nuclear non-proliferation policies, purposes, and objectives of this Act. The Secretaries of State, Energy, Defense, and Commerce and the Commission³⁸ shall cooperate with the Comptroller General in the conduct of the study. The report shall contain such recommendations as the Comptroller General deems necessary to support the nuclear non-proliferation policies, purposes, and objectives of this Act.

(f)³⁹ (1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or

House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.”

Sec. 1134 of that Act, furthermore, provided the following:

“SEC. 1134. PROVISION OF CERTAIN INFORMATION TO CONGRESS.

“(a) REQUIREMENT TO PROVIDE INFORMATION.—The head of each department and agency described in section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in meeting the requirements of subsection (c) of (d) of section 602 of such Act.

“(b) ISSUANCE OF DIRECTIVES.—Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c) and (d)). Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.

³⁸Sec. 1225(e)(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out “and the Director” at this point.

³⁹Subsec. (f) was added by sec. 1370 of Public Law 99-661 (100 Stat. 4004).

any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of inter-agency deliberations on nuclear proliferation matters.

SAVING CLAUSE

SEC. 603.⁴⁰ (a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to section 91 c., 144 b., or 144 c. of the 1954 Act or arrangements pursuant thereto as it was in effect immediately prior to the date of enactment of this Act.

(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions.

⁴⁰ 42 U.S.C. 2153f.

(2) Functions Relating to Nuclear Non-Proliferation

Executive Order 12058, May 11, 1978, 43 F.R. 20947, 22 U.S.C. 3201 note

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 120, 22 U.S.C. 3201) and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Department of Energy. The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act to the extent it relates to the preparation of a detailed generic plan.

Sec. 2. Department of State. The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 146, 147, and 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President's functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

Sec. 3. Department of Commerce. The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

Sec. 4. Coordination. In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

Sec. 5. General Provisions. (a) Executive Order No. 11902 of February 2, 1976, entitled "Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment," is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

(3) Export of Nuclear Material

(A) U.S. Exports of Low-Enriched Uranium Fuel

Public Law 96-280 [S.J. Res. 89], 94 Stat. 550, approved June 18, 1980

JOINT RESOLUTION Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

Whereas the Nuclear Non-Proliferation Act of 1978 urges the United States to provide a reliable supply of nuclear fuel to those nations which adhere to policies designed to prevent the proliferation of nuclear weapons; and

Whereas the United States, in order to achieve the goals of that Act should be able to continue to supply low-enriched uranium fuel to nations that have entered into good faith negotiations as called for in section 404(a) of the Act; and

Whereas pending such negotiations, limitations now contained in certain agreements for cooperation on the amount of low-enriched uranium which may be supplied thereunder are insufficient to permit adequate assurance of supplies: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.¹ Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

SEC. 2.¹ (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

¹ 42 U.S.C. 2153c note.

**(B) Export of Special Nuclear Material and Components to
India**

Executive Order 12218, June 19, 1980, 45 F.R. 41625, 42 U.S.C. 2155 note

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126b. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(b)(2)), and having determined that withholding the exports proposed pursuant to Nuclear Regulatory Commission export license applications XSNM-1379, XSNM-1569, XCOM-0240, XCOM-0250, XCOM-0376, XCOM-0381 and XCOM-0395, would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security, those exports to India are authorized; however, such exports shall not occur for a period of 60 days as defined by Section 130 g. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2159(g)).

(C) Export of Special Nuclear Material to India

Executive Order 12055, April 27, 1978, 43 F.R. 18157, 42 U.S.C. 2155 note

By virtue of the authority vested in me as President by the Constitution of the United States of America and by Section 126b(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2155), as amended by Section 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 131), and having determined that withholding the export proposed pursuant to Nuclear Regulatory Commission export license application XSNM-1060 would be seriously prejudicial to the achievement of the United States non-proliferation objectives, that export to India is authorized; however, such export shall not occur for a period of 60 days as defined by Section 130g of the Atomic Energy Act of 1954, as amended.

(4) Department of Energy Act of 1978—Civilian Applications

**Partial text of Public Law 95-238 [S. 1340], 92 Stat. 47 at 59 and 75,
approved February 25, 1978**

AN ACT To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Non-Nuclear Energy Research and Development Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Department of Energy Act of 1978—Civilian Applications”.

* * * * *

SEC. 203.¹ The Secretary of Energy, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, “Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy”, on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamation, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

* * * * *

SEC. 208.² (a) The Secretary of Energy shall—

- (1) * * *
- (2) * * *

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well

¹22 U.S.C. 2429 note.
²42 U.S.C. 5556a.

as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

* * * * *

o. Atomic Energy Act and Related Materials

(1) Atomic Energy Act of 1954, as amended

Partial Text of Public Law 83-703 [H.R. 9757], 68 Stat. 919, approved August 30, 1954; as amended by Public Law 84-337 [H.R. 7684], 69 Stat. 630, approved August 9, 1955; Public Law 84-722 [H.R. 11926], 70 Stat. 553, approved July 14, 1956; Public Law 84-1006 [S. 4203], 70 Stat. 1069, approved August 6, 1956; Public Law 85-14 [H.R. 5866], 71 Stat. 11, approved April 12, 1957; Public Law 85-79 [S. 2243], 71 Stat. 274, approved July 3, 1957; Public Law 85-162 [H.R. 8996], 71 Stat. 410, approved August 21, 1957; Public Law 85-177 [International Atomic Energy Participation Act of 1957; H.R. 8992], 71 Stat. 453, approved August 28, 1957; Public Law 85-256 [H.R. 7383], 71 Stat. 576, approved September 2, 1957; Public Law 85-287 [H.R. 8994], 71 Stat. 612, approved September 4, 1957; Public Law 85-479 [H.R. 12716], 72 Stat. 276, approved July 2, 1958; Public Law 85-507 [Government Employees Training Act; S. 385], 72 Stat. 327, approved July 7, 1958; Public Law 85-602 [S. 4165], 72 Stat. 525, approved August 8, 1958; Public Law 85-681 [H.R. 13482], 72 Stat. 632, approved August 19, 1958; Public Law 85-744 [H.R. 13455], 72 Stat. 837, August 23, 1958; Public Law 86-43 [S. 1197], 73 Stat. 73, approved June 11, 1959; Public Law 86-50 [S. 2094], 73 Stat. 81, approved June 23, 1959; Public Law 86-300 [S. 2569], 73 Stat. 574, approved September 21, 1959; Public Law 86-373 [S. 2568], 73 Stat. 688, approved September 23, 1959; Public Law 87-206 [H.R. 8599], 75 Stat. 476, approved September 6, 1961; Public Law 87-615 [S. 3491], 76 Stat. 409, approved August 29, 1962; Public Law 87-793 [Postal Service and Federal Employees Salary Act of 1962; H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 88-72 [S. 1745], 77 Stat. 84, approved July 22, 1963; Public Law 88-294 [S. 2448], 78 Stat. 172, approved March 26, 1964; Public Law 88-394 [S. 2963], 78 Stat. 376, approved August 1, 1964; Public Law 88-426 [Government Employees Salary Reform Act of 1964; H.R. 11049], 78 Stat. 423, approved August 14, 1964; Public Law 88-448 [Dual Compensation Act; H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 88-489 [Private Ownership of Special Nuclear Materials Act; S. 3075], 78 Stat. 602, approved August 26, 1964; Public Law 89-135 [H.R. 8856], 79 Stat. 551, approved August 24, 1965; Public Law 89-210 [S. 2042], 79 Stat. 855, approved September 29, 1965; Public Law 89-645 [S. 3830], 80 Stat. 891, approved October 13, 1966; Public Law 90-190 [S. 2644], 81 Stat. 575, approved December 14, 1967; Public Law 91-161 [S. 3169], 83 Stat. 444, approved December 24, 1969; Public Law 91-452 [Organized Crime Control Act of 1970; S. 30], 84 Stat. 922, approved October 15, 1970; Public Law 91-560 [H.R. 18679], 84 Stat. 1472, approved December 19, 1970; Public Law 92-84 [H.R. 9388], 85 Stat. 304, approved August 11, 1971; Public Law 92-307 [H.R. 14655], 86 Stat. 191, approved June 2, 1972; Public Law 92-314 [S. 3607], 86 Stat. 227, approved June 16, 1972; Public Law 93-377 [S. 3669], 88 Stat. 472, approved August 17, 1974; Public Law 93-438 [Energy Reorganization Act of 1974; H.R. 11510], 88 Stat. 1233, approved October 11, 1974; Public Law 93-485 [S. 3698], 88 Stat. 1460, approved October 26, 1974; Public Law 93-514 [S. 3802], 88 Stat. 1611, approved December 6, 1974; Public Law 94-197 [H.R. 8631], 89 Stat. 1111, approved Dec. 31, 1975; Public Law 95-110 [S. 1153], 91 Stat. 884, approved Sept. 20, 1977; Public Law 95-242 [Nuclear Nonproliferation Act of 1978; H.R. 8638], 92 Stat. 120, approved March 10, 1978; Public Law 95-601 [S. 2584], 92 Stat. 2947, approved November 6, 1978; Public Law 95-604 [Uranium Mill Tailings Radiation Control Act of 1978; H.R. 13650], 92 Stat. 3021, approved November 8, 1978; Public Law 96-106 [Surface Transportation Assistance Act of 1978; H.R. 4249], 93 Stat. 796, approved November 9, 1978; Public Law 96-295 [S. 562], 94 Stat. 780, approved June 30, 1980; Public Law 97-90 [Department of Energy National Security and Military

Applications of Nuclear Energy Authorization Act of 1982; H.R. 3413], 95 Stat. 1163, approved December 4, 1983; Public Law 97-164 [Federal Courts Improvement Act; H.R. 4482], 96 Stat. 25, approved April 2, 1982; Public Law 97-415 [H.R. 2330], 96 Stat. 2067, approved January 4, 1983; Public Law 99-64 [Export Administration Act of 1985; S. 883], 99 Stat. 120, approved July 12, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 100-408 [Price-Anderson Amendments Act of 1988; H.R. 1414], 102 Stat. 1066, approved August 20, 1988; Public Law 101-189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101-575 [Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990; H.R. 4808], 104 Stat. 2834, approved November 15, 1990; Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102-486 [Energy Policy Act of 1992; H.R. 776], 106 Stat. 2776, approved October 24, 1992; Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 103-437 [U.S. Code Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104-134 [USEC Privatization Act, subchapter A of chapter 1 of title III of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321, approved April 26, 1996; Public Law 104-184 [House of Representatives Administrative Reform Technical Corrections Act; H.R. 2739], 110 Stat. 1718, approved August 20, 1996; Public Law 105-85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999

NOTE.—The Atomic Energy Commission was abolished and its functions were transferred to the Administrator of the Energy Research and Development Administration, except for any licensing or regulatory functions of the Commission, which were transferred to the Nuclear Regulatory Commission. See Public Law 93-438, 42 U.S.C. 5814 and 5841. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided). See Public Law 95-91, 42 U.S.C. 7151(a) and 7293.

Certain functions of the Nuclear Regulatory Commission were transferred to the Chairman thereof. See Reorganization Plan No. 1 of 1980 (45 F.R. 40561; 94 Stat. 3585; 42 U.S.C. 5841 note).

AN ACT To amend the Atomic Energy Act of 1946, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Atomic Energy Act of 1946, as amended, is amended to read as follows:

ATOMIC ENERGY ACT OF 1954

TITLE I—ATOMIC ENERGY¹

CHAPTER 1. DECLARATION, FINDINGS, AND PURPOSE

Section 1.² Declaration.—Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

a. the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contributions to the common defense and security; and

b. the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

Sec. 2.³ Findings.—The Congress of the United States hereby makes the following findings concerning the development, use, and control of atomic energy:

a. The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

c.⁴ The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

d. The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

e. Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is

¹Sec. 902(a)(8) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 2944) inserted title designation, and sec. 901 of that Act added “Title II—United States Enrichment Corporation” at 42 U.S.C. 2297 *et seq.*

²42 U.S.C. 2011.

³42 U.S.C. 2012. Sec. 20 of the Private Ownership of Special Nuclear Materials Act (Public Law 88-489; 78 Stat. 602) read as follows:

“Nothing in this Act shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives.”

⁴Sec. 1 of Public Law 88-489 (78 Stat. 602) deleted subsec. 2 b. Subsec. 2 b. read as follows:

“b. In permitting the property of the United States to be used by others, such use must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.”

necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

f. The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this Act.

g. Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

i.⁵ In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

Sec. 3.⁶ Purpose.—It is the purpose of this Act to effectuate the policies set forth above by providing for—

a. a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

b. a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

c.⁷ a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contributions to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

d. a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

e. a program of international cooperation to promote the common defense and security and to make peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

f. a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will

⁵Sec. 2 of Public Law 88-489 (78 Stat. 602) deleted subsec. 2h. Subsec. 2h. read as follows: "h. It is essential to the common defense and security that title to all special nuclear material be in the United States while such special material is within the United States."

Sec. 1 of Public Law 88-256 (71 Stat. 576) (1957) added subsec. i.

⁶42 U.S.C. 2013.

⁷Sec. 3 of Public Law 88-489 (78 Stat. 602) amended subsec. c. It formerly read:

"c. A program for Government control of the possession, use, and production of atomic energy and special nuclear material so directed as to make the maximum contribution to the common defense and security and the national welfare;"

enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

CHAPTER 2. DEFINITIONS

Sec. 11.⁸ Definitions.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

a. The term “agency of the United States” means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

b. The term “agreement for cooperation” means any agreement with another nation or regional defense organization authorized or permitted by sections 54, 57, 64, 82, 91 c.,⁹ 103, 104, or 144, and made pursuant to section 123.

c. The term “atomic energy” means all forms of energy released in the course of nuclear fission or nuclear transformation.

d. The term “atomic weapon” means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

e.¹⁰ The term “byproduct material” means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

f. The term “Commission” means the Atomic Energy Commission.

g. The term “common defense and security” means the common defense and security of the United States.

h. The term “defense information” means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

i. The term “design” means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

j.¹¹ The term “extraordinary nuclear occurrence” means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Nu-

⁸ 42 U.S.C. 2014.

⁹ The reference to 91 c. was added by sec. 2 of Public Law 87-206 (75 Stat. 475).

¹⁰ Subsec. e. was amended and restated by sec. 201 of Public Law 95-604 (92 Stat. 3033). The former definition of “byproduct material” included only the text found in phrase (1) of the current subsec. e.

¹¹ Sec. 1 of Public Law 98-645 (80 Stat. 891) added subsecs. j and m.

clear Regulatory Commission or the Secretary of Energy, as appropriate,¹² determines to be substantial, and which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,¹² determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,¹² that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,¹² shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, "offsite" means away from "the location" or "the contract location" as defined in the applicable Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,¹² indemnity agreement, entered into pursuant to section 170.

k.¹³ The term "financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

l. The term "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

m.¹¹ The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,¹² with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 170.

n. The term "international arrangement" means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

o.¹⁴ The term "Energy Committees" means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

p.¹⁵ The term "licensed activity" means an activity licensed pursuant to this Act and covered by the provisions of section 170 a.

¹²The text "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate," was inserted in lieu of "Commission" by sec. 16(b)(1) of Public Law 100-408 (102 Stat. 1079).

¹³Sec. 3 of Public Law 85-256 (71 Stat. 576) added subsec. k.

¹⁴Sec. 15(f)(1) of Public Law 103-437 (108 Stat. 4592) amended sec. 11 o. It formerly referred to the Joint Committee on Atomic Energy. Sec. 1(a)(4) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference in any provision of law enacted before January 4, 1995 to the House Committee on Energy and Commerce shall be treated as referring to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues.

¹⁵Sec. 3 of Public Law 85-256 (71 Stat. 576) added subsec. p.

q.¹⁶ The term “nuclear incident” means any occurrence, including an extraordinary nuclear occurrence¹⁶ within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section¹⁷ 170 l., it shall include any such occurrence outside the United States: *And provided further,* That as the term is used in section¹⁷ 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material¹⁸ owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in section¹⁷ 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Nuclear Regulatory Commission¹⁹ to another person licensed by the Nuclear Regulatory Commission.^{18, 19}

r. The term “operator” means any individual who manipulates the controls of a utilization or production facility.

s. The term “person” means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

t.²⁰ The term “person indemnified” means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section²¹ 170 c., and with respect to any other nuclear incident in connection with the design,

¹⁶Originally added as subsec. o. by sec. 3 of Public Law 85-256 (71 Stat. 576), and subsequently amended and restated by sec. 4 of Public Law 87-615 (76 Stat. 409). Previously, this subsec. read:

“o. The term ‘nuclear incident’ means any occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in subsection 170 l., it shall mean any such occurrence outside of the United States rather than within the United States.”

Sec. 1 of Public Law 89-645 (80 Stat. 891) redesignated subsec. o. as “q.” and inserted the text, “including an extraordinary nuclear occurrence”.

¹⁷Sec. 16(d)(1) of Public Law 100-408 (102 Stat. 1079) inserted “section” in lieu of “subsection”.

¹⁸Sec. 1 of Public Law 94-197 (89 Stat. 1111) substituted “source, special nuclear, or byproduct material” for “a facility or device” in the second proviso and added the third proviso.

¹⁹The words “Nuclear Regulatory Commission” were inserted in lieu of “Commission” by sec. 16(a)(1) of Public Law 100-408 (102 Stat. 1079).

²⁰Sec. 3 of Public Law 85-256 (71 Stat. 576) added subsec. t. Subsequently, sec. 5 of Public Law 87-615 (76 Stat. 409) and sec. 1 of Public Law 94-197 (89 Stat. 1111) amended the subsection.

²¹Sec. 16(d)(2) of Public Law 100-408 (102 Stat. 1079) inserted “section” in lieu of “subsection”.

development, construction, operation, repair, maintenance, or use of the nuclear ship *Savannah*, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy²² or any project to which indemnification under the provisions of section²¹ 170 d. has been extended or under any subcontract, purchase order or other agreement, of any tier, under any such contract or project.

u. The term “produce”, when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

v. The term “production facility” means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility,²³ such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.²⁴

w.²⁵ The term “public liability” means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation),²⁶ except: (i) claims under State or Federal workmen’s compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs;

²²Sec. 16(b)(2) of Public Law 100-408 (102 Stat. 1079), inserted the words “Secretary of Energy” in lieu of “Commission”.

²³Sec. 3116(b) of the USEC Privatization Act (subchapter A, chapter 1, title III of Public Law 104-134; 110 Stat. 1321-349) struck out “or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology” following “facility”.

²⁴Last sentence amended and restated by sec. 1102 of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 2955). Formerly read as following, as added by sec. 5 of Public Law 101-575 (104 Stat. 2835): “Except with respect to the export of a uranium enrichment production facility, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.”

²⁵Sec. 3 of Public Law 85-256 (71 Stat. 576) added subsec. w. Subsec. w. was subsequently amended by Public Law 87-206 (75 Stat. 475) (1961). Previously, subsec. w. read:

“The term ‘public liability’ means any legal liability arising out or resulting from a nuclear incident, except claims under State or Federal Workmen’s Compensation Acts of employees or persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. ‘Public liability’ also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.”

²⁶The words to this point, following “nuclear incident” the first place it appears, were added by sec. 4(b) of Public Law 100-408 (102 Stat. 1069).

(ii) claims arising out of an act of war; and (iii) whenever used in subsections a., c., and k. of 170,²⁷ claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity which the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

x. The term "research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

y. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142.

z. The term "source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 61 to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

aa. The term "special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

bb.²⁸ The term "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

cc. The term "utilization facility" means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

²⁷Sec. 16(d)(3) of Public Law 100-408 (102 Stat. 1080), inserted "subsections a., c., and k. of 170" in lieu of "subsections 170 a., c., and k."

²⁸Sec. 1 of Public Law 84-1006 (70 Stat. 1069) amended this definition, which previously read:

"The term 'United States', when used in a geographical sense, includes all Territories and possessions of the United States, and the Canal Zone."

dd.²⁹ The terms “high-level radioactive waste” and “spent nuclear fuel” have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

ee.²⁹ The term “transuranic waste” means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

ff.²⁹ The term “nuclear waste activities”, as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).

gg.³⁰ The term “precautionary evacuation” means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

hh.³¹ The term “public liability action”, as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

jj.³² LEGAL COSTS.—As used in section 170, the term “legal costs” means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.

CHAPTER 3. ORGANIZATION³³

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²⁹Subsecs. dd., ee., and ff. were added by sec. 4(b) of Public Law 100-408 (102 Stat. 1069).

³⁰Subsec. gg. was added by sec. 5(b) of Public Law 100-408 (102 Stat. 1070).

³¹Subsec. hh. was added by sec. 11(b) of Public Law 100-408 (102 Stat. 1076).

³²Subsec. jj. was added by sec. 11(d)(2) of Public Law 100-408 (102 Stat. 1078).

CHAPTER 6. SPECIAL NUCLEAR MATERIAL

Sec. 51.³⁴ **Special Nuclear Material.**—The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees³⁵ and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Energy Committees,³⁵ after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

* * * * *

Sec. 54.³⁶ **Foreign Distribution of Special Nuclear Material.**—a. The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 123. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value \$10,000 in the case of one nation or \$50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however,* That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of

³³Sec. 104(a) of the Energy Reorganization Act of 1974 (Public Law 93-438; 88 Stat. 1237; 42 U.S.C. 5801-5891) repealed sections 21 and 22 (42 U.S.C. 2031 and 2032) of ch. 3, abolishing the Atomic Energy Commission created thereunder and vesting its licensing and related regulatory authority of facilities under chapters 6, 7, 8, and 10 in a new Nuclear Regulatory Commission and transferring all its other functions to a new Energy Research and Development Administration. All functions of the Energy Research and Development Administration were subsequently transferred to the Department of Energy which was established, effective October 1, 1977, pursuant to the Department of Energy Organization Act (91 Stat. 569) and Executive Order 12009 of September 13, 1977. See boxnote on page 1820.

³⁴42 U.S.C. 2071.

³⁵Sec. 15(f)(2) of Public Law 103-437 (108 Stat. 4592) struck out "Joint Committee" and inserted in lieu thereof "Energy Committees".

³⁶42 U.S.C. 2074. Sec. 54 was amended and restated by sec. 2 of Public Law 93-377 (88 Stat. 472).

contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however,* That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Energy Committees³⁷ and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further,* That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further,* That prior to the elapse of the first thirty days of any such sixty-day period the Energy Committees shall submit to their respective houses reports of their views³⁸ and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 104, established by the Commission pursuant to section 56, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

b. Notwithstanding the provisions of sections 123, 124, and 125, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more

³⁷Sec. 15(f)(3)(A) of Public Law 103-437 (108 Stat. 4592) struck out "Joint Committee" and inserted in lieu thereof "Energy Committees".

³⁸Sec. 15(f)(3)(A) of Public Law 103-437 (108 Stat. 4592) struck out "Joint Committee shall submit a report to the Congress of its views", and inserted in lieu thereof "Energy Committees shall submit to their respective houses reports of their views".

by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 57 d., exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

c. The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

d.³⁹ The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

- (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or
- (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.

e.⁴⁰ The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2)(E) shall be subject to the requirements of section 131.

Sec. 55.⁴¹ Acquisition.—The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this Act, to purchase without regard to the limitations in section 54 or any guaranteed purchase prices established pursuant to section 56, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by

³⁹Subsec. d. was added by sec. 301(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 125).

⁴⁰Subsec. e. was added by sec. 303(b)(1) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 131).

⁴¹42 U.S.C. 2075. Sec. 10 of Public Law 88-489 (78 Stat. 602) amended and restated sec. 55. Sec. 55 previously read as follows:

“Sec. 55. Acquisition.—The Commission is authorized to purchase or otherwise acquire any special nuclear material or any interest therein outside the United States without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.”

the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section: *Provided*, That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangements under section 131 a. (2)(E) shall be subject to the requirements of section 131.⁴²

Sec. 56.⁴³ Guaranteed Purchase Prices.—The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 104 and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 103⁴⁴ or section 104 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided*, That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 53.

Sec. 57.⁴⁵ Prohibition.—

a. Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant

⁴²Sec. 303(b)(2) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 131) added the proviso clause.

⁴³42 U.S.C. 2076. Sec. 11 of Public Law 88-489 (78 Stat. 602) amended and restated sec. 56. Sec. 56 previously read as follows:

"Sec. 56. Fair Price.—In determining the fair price to be paid by the Commission pursuant to section 52 for the production of any special nuclear material, the Commission shall take into consideration the value of the special nuclear material for its intended use by the United States and may give such weight to the actual cost of producing that material as the Commission finds to be equitable. The fair price, as may be determined by the Commission, shall apply to all licensed producers of the same material: *Provided, however*, That the Commission may establish guaranteed fair prices for all special nuclear material delivered to the Commission for such period of time as it may deem necessary not to exceed seven years."

⁴⁴Public Law 91-500 (84 Stat. 1472) (1970), sec. 2, added "section 103 or" to this sentence.

⁴⁵42 U.S.C. 2077. Sec. 12 of Public Law 88-489 (78 Stat. 602) amended and restated sec. 57. Sec. 57 previously read as follows:

"Sec. 57. Prohibition.—

"a. It shall be unlawful for any person to—

"(1) possess or transfer any special nuclear material which is the property of the United States except as authorized by the Commission pursuant to subsec. 53 a.;

"(2) transfer or receive any special nuclear material in interstate commerce except as authorized by the Commission pursuant to subsection 25 a., or export from or import into the United States any special nuclear material; and

"(3) directly or indirectly engage in the production of any special nuclear material outside of the United States except (A) under an agreement for cooperation made pursuant to section 123, or (B) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

"b. The Commission shall not distribute any special nuclear material—

"(1) to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

"(2) to any person within the United States, if the Commission finds that the distribution of such special nuclear material to such person would be inimical to the common defense and security."

to section 53, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

b.⁴⁶ It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the⁴⁷ Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after the enactment of the Nuclear Non-Proliferation Act of 1978, establish orderly and expeditious procedures,⁴⁸ including provision for necessary administrative actions and inter-agency memoranda of understanding, which as mutually agreeable to the Secretaries of State, Defense, and Commerce,⁴⁹ and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any request proposed and filed as of the date of enactment of the Nuclear Non-Proliferation Act of 1978 shall not be delayed pending the development and establishment of

⁴⁶Subsec. b. was amended and restated by sec. 302 of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 126). It formerly read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to sec. 123, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States."

⁴⁷Sec. 1225(d)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Arms Control and Disarmament Agency,".

⁴⁸See text of procedures in *Legislation on Foreign Relations*, vol. V, sec. L.

⁴⁹Sec. 1225(d)(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Director of the Arms Control and Disarmament Agency,".

procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in subsection 11 v. (2) or 11 cc. (2) shall be governed by sections 109 and 126 of this Act: *Provided further*, That notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 54 d., section 64, or section 111 b.

c. The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

(2) distribute any special nuclear material or issue a license pursuant to section 53 to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

d.⁵⁰ The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

e.⁵¹ Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.

Sec. 58.⁵² **Review.**—Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 53, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the En-

⁵⁰ Subsec. d. was added by sec. 3 of Public Law 93-377 (88 Stat. 475).

⁵¹ Sec. 14 of Public Law 97-415 (96 Stat. 2075) added subsec. (e).

⁵² 42 U.S.C. 2078. Sec. 13 of Public Law 88-489 (78 Stat. 602) amended and restated sec. 58. Sec. 58 previously read as follows:

“Sec. 58. Review.—Before the Commission establishes any fair price or guaranteed fair price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed or distributed under section 53 the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Joint Committee, after having received the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge, may by resolution waive the conditions of or all or any portion of such forty-five day period.”

ergy Committees⁵³ and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Energy Committees,⁵³ after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period.

CHAPTER 7. SOURCE MATERIAL

Sec. 61.⁵⁴ **Source Material.**—The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees⁵³ and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Energy Committees,⁵³ after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

Sec. 62.⁵⁵ **License for Transfers Required.**—Unless authorized by a general or specific license issued by the Commission, which the Commission is hereby authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

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Sec. 64.⁵⁶ **Foreign Distribution of Source Material.**—The Commission is authorized to cooperate with any nation by distribution source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 123. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States. The authority to distribute source material under this sec-

⁵³ Sec. 15(f)(4) of Public Law 103-437 (108 Stat. 4592) struck out "Joint Committee" and inserted in lieu thereof "Energy Committees".

⁵⁴ 42 U.S.C. 2091.

⁵⁵ 42 U.S.C. 2092.

⁵⁶ 42 U.S.C. 2094.

tion other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.⁵⁷

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Sec. 69.⁵⁸ **Prohibition.**—The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

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CHAPTER 8. BYPRODUCT MATERIAL

Sec. 81.⁵⁹ **Domestic Distribution.**—No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.⁶⁰ The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to licensees⁶¹ with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or

⁵⁷This sentence was added by sec. 301(b) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 125).

⁵⁸42 U.S.C. 2099.

⁵⁹42 U.S.C. 2111.

⁶⁰The reference to sec. 84 was added by sec. 205(b) of Public Law 95-604 (92 Stat. 3039).

⁶¹Sec. 4 of Public Law 93-377 (88 Stat. 475) deleted the word "licensees" and substituted "qualified applicants".

kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Sec. 82.⁶² Foreign Distribution of Byproduct Material.—

a. The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party an which is made in accordance with section 123.

b. The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such materials as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

c. The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

Sec. 83.⁶³ Ownership and Custody of Certain Byproduct Material and Disposal Sites.—

a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11 e. (2), shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

(2) ownership of any byproduct material, as defined in section 11 e. (2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection b. (1) to acquire land used for the disposal of byproduct material.

Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.

b. (1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued

⁶² 42 U.S.C. 2112.

⁶³ 42 U.S.C. 2113. Sec. 202(a) of Public Law 95-604 (92 Stat. 3033) added sec. 83. However, sec. 202(b) of that Act stated that sec. 83 would not be effective until Nov. 8, 1981. The last sentence of subsec. a. was amended and restated by sec. 20(c) of Public Law 96-106.

after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 11 e. (2), pursuant to such license shall be transferred to—

(i) the United States, or

(ii) the State in which such land is located, at the option of such State,

unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 81 of this Act in such manner as will protect the public health, safety, and the environment.

(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interest therein (described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the author-

ity of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The Commission may, pursuant to a license, or by rule or order require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

(6) The transfer of title to land or byproduct materials, as defined in section 11 e. (2), to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

c. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.

Sec. 84.⁶⁴ Authorities of Commission Respecting Certain By-product Material.—

a. The Commission shall insure that the management of any by-product material, as defined in section 11 e. (2), is carried out in such manner as—

- (1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environ-

⁶⁴ 42 U.S.C. 2114. Sec. 84 was added by sec. 205(a) of Public Law 95-604 (92 Stat. 3039).

ment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,⁶⁵

(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administration under Solid Waste Disposal Act, as amended.

b. In carrying out its authority under this section, the Commission is authorized to—

(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.

c.⁶⁶ In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.

⁶⁵The words to this point beginning with "taking into account the risk to the public health, * * *" were added by sec. 22(a) of Public Law 97-415 (96 Stat. 2080).

⁶⁶Sec. 20 of Public Law 97-415 (96 Stat. 2079) added subsec. c.

CHAPTER 9. MILITARY APPLICATION OF ATOMIC ENERGY

Sec. 91.⁶⁷ **Authority.**—

a.⁶⁸ The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy;

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year;

(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.

b. The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

c.⁶⁹ The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 57, 62, or 81, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President.

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

⁶⁷ 42 U.S.C. 2121.

⁶⁸ Sec. 3157 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1684) struck out "and" at the end of clause (1); struck out a period at the end of clause (2) and inserted in lieu thereof a semicolon; and added new clauses (3) through (5).

⁶⁹ Sec. 1 of Public Law 85-479 (72 Stat. 276) added subsec. c.

(2) utilization facilities for military applications; and
 (3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

Sec. 92.⁷⁰ Prohibition.—It shall be unlawful, except as provided in section 91, for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.

SEC. 93.⁷¹ * * * [Repealed—1999]

CHAPTER 10. ATOMIC ENERGY LICENSES

Sec. 101.⁷² License Required.—It shall be unlawful, except as provided in section 91, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,⁷³ import, or export any utilization

⁷⁰42 U.S.C. 2122. Sec. 2 of Public Law 85-479 (72 Stat. 276) amended and restated sec. 92. Sec. 92 previously read as follows:

“Sec. 92. Prohibition.—It shall be unlawful for any person to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon, except as may be authorized by the Commission pursuant to the provisions of section 91. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.”

⁷¹Formerly at 42 U.S.C. 2122a. Sec. 3294(e)(1)(A) of Public Law 106-65 (113 Stat. 970) repealed sec. 93, which had provided for congressional oversight of special access programs, including annual and periodic reports. Originally added by sec. 3156 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1953).

⁷²42 U.S.C. 2131.

⁷³Sec. 11 of Public Law 84-1006 (70 Stat. 1069) added the word “use”.

or production facility except under and in accordance with a license issued by the Commission pursuant to section 103 or 104.

Sec. 102.⁷⁴ Utilization and Production Facilities for Industrial or Commercial Purposes.—

a. Except as provided in subsections b. and c., or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 103.

b. Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to subsection 104 b. prior to enactment into law of this subsection, shall be issued under subsection 104 b.

c. Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under subsection 104 b.

Sec. 103.⁷⁵ Commercial Licenses.—

a. The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,⁷⁶ import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, utilization or production facilities for industrial or commercial purposes.⁷⁷ Such licenses shall be issued in accordance with the provisions of chapter 16 and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this Act.

b. The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such license as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

⁷⁴ 42 U.S.C. 2132. Sec. 3 of Public Law 91-560 (84 Stat. 1472) amended sec. 102, which previously read as follows:

“Sec. 102. Finding of Practical Value.—Whenever the Commission has made a finding in writing that any type of utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes, the Commission may thereafter issue licenses for such type of facility pursuant to section 103.”

⁷⁵ 42 U.S.C. 2133.

⁷⁶ Sec. 12 of Public Law 84-1006 (70 Stat. 1069) added the word “use.”

⁷⁷ Sec. 4 of Public Law 91-650 (84 Stat. 1472) amended the first sentence of sec. 103 a., which previously read as follows:

“Subsequent to a finding by the Commission as required in section 102, the Commission may issue licenses to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, such type of utilization or production facility.”

c. Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period.

d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123, or except under the provisions of section 109. No license may be issued to an alien or any⁷⁸ corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

f.⁷⁹ Each license issued for a utilization facility under this section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104 b. which is in effect on the date of enactment of this subsection to include the provision required under this subsection.

Sec. 104.⁸⁰ Medical Therapy and Research and Development.—

a. The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this Act to promote the common defense and security and to protect the health and safety of the public.

b.⁸¹ As provided for in subsection 102 b. or 102 c., or where specifically authorized by law, the Commission is authorized to issue

⁷⁸Sec. 13 of Public Law 84-1006 (70 Stat. 1069) added the words "an alien or any" between the words "to" and "any" in the second sentence of subsec. 103 d.

⁷⁹Sec. 201(a) of Public Law 96-295 (94 Stat. 786) added subsec. f.

⁸⁰42 U.S.C. 2134.

⁸¹Sec. 5 of Public Law 91-560 (84 Stat. 1472) amended and restated subsec. b, which previously read as follows:

"b. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial or commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will be compatible with the regulations and terms of license which would apply in the event that a commercial license were later to be issued pursuant to section 103 for that type of facility. In issuing such licenses, priority shall be given to those activities which will, in the opinion of the Commission, lead to major advances in the application of atomic energy for industrial or commercial purposes."

licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act.

c. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 31 and which are not facilities of the type specified in subsection 104 b. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123 or except under the provisions of section 109. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

* * * * *

Sec. 109.⁸² Component and Other Parts of Facilities.—

a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2) the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

b. After consulting with the Secretaries of State, Energy, and Commerce,⁸³ the Commission is authorized and directed to determine which component parts as defined in subsection 11 v. (2) or 11 cc. (2) and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 126 b. (2), no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other in-

⁸²42 U.S.C. 2139. Sec. 109 was amended and restated by sec. 309(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 141). Sec 309(b) of that Act also instructed the Commission to publish regulations to implement the provisions of subssecs. b. and c. of sec. 109. Sec. 309(d) of that same Act also stated that the amendments to sec. 109 would not affect the approval of exports contracted for prior to Nov. 1, 1977, which are made by Mar. 10, 1979.

⁸³Sec. 1225(d)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "and the Director".

formation available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act.

c. The Commission shall not issue an export license under the authority of subsection b. if it is advised by the executive branch, in accordance with the procedures established under subsection 126 a., that the export would be inimical to the common defense and security of the United States.

* * * * *

Sec. 111.⁸⁴ a. The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to sections 54, 64, and 82 of this Act, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act.

b. The Department of Energy shall not distribute any special nuclear material or source material under section 54 or 64 of this Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Nuclear Regulatory Commission⁸⁵ and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 127 of this Act or their equivalent and any application criteria in subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security.

⁸⁴ 42 U.S.C. 2141. Sec. 111 was added by sec. 301(c) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 125).

⁸⁵ Sec. 1225(d)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission," and inserted in lieu thereof "the Nuclear Regulatory Commission".

CHAPTER 11. INTERNATIONAL ACTIVITIES

Sec. 121.⁸⁶ **Effect of International Arrangements.**—Any provision of this Act or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangement made after the date of enactment of this Act shall be deemed to be of no force or effect.

Sec. 122.⁸⁷ **Policies Contained in International Arrangements.**—In the performance of its functions under this Act, the Commission shall give maximum effect to the policies contained in any international arrangement made after the date of enactment of this Act.

* * * * *

Sec. 123.⁸⁸ **Cooperation With Other Nations.**—

No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

a. the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

(3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pur-

⁸⁶ 42 U.S.C. 2151.

⁸⁷ 42 U.S.C. 2152.

⁸⁸ 42 U.S.C. 2153. Sec. 123, as previously amended by Public Law 85-479 (72 Stat. 276), Public Law 85-681 (72 Stat. 632), and Public Law 88-489 (78 Stat. 602), was further amended and restated by sec. 401 of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 142). Sec. 405(a) of the 1978 Act also stated that these amendments to sec. 123 would not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to Mar. 10, 1978. Sec. 407 also of the 1978 Act specified that for any agreement entered into pursuant to sec. 123, the President shall strive to include in such agreement cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

suant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

(4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States;

(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

(7) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear material which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ a guaranty by the cooperating party that no plutonium, no uranium 223, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation or recovered from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to

⁸⁹Sec. 3155(c)(1)(A) of Public Law 103-337 (108 Stat. 3092) struck out "or 144 c." wherever it appeared in sec. 123, inserting in lieu thereof "144 c., or 144 d."

the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ a guaranty by the cooperation party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.)⁸⁹ from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize that common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy;⁹⁰ and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendation of the Secretary of State, the Secretary of Energy, and⁹¹ the Nuclear Regulatory Commission. The Secretary of State⁹² shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)⁹³ regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.⁹⁴ In the case of those agreements for cooperation arranged pursuant to subsection 91

⁸⁹Sec. 1225(d)(4)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "and in consultation with the Director of the Arms Control and Disarmament Agency (the Director)".

⁹¹Sec. 1225(d)(4)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) inserted "and" after "Energy".

⁹²Sec. 1225(d)(4)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "Commission, and the Director, who" and inserted in lieu thereof "Commission. The Secretary of State".

⁹³The text to this point beginning with "(A) which shall analyze * * *" was added by sec. 301(a)(1) the Export Administration Amendments Act of 1985 (Public Law 99-64; 99 Stat. 159).

⁹⁴Sec. 1225(d)(4)(A)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) added this sentence.

c., 144 b., 144 c., or 144 d.,⁹⁵ any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 d.,⁹⁵ which are to be implemented by the Department of Defense, by the Secretary of Defense;

b. the President has submitted text of the proposed agreement for cooperation (except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d.),⁹⁶ together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs⁹⁷ of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 130 g. of this Act) concerning the consistency of the terms of the proposed agreement with all the requirements of this Act, and⁹⁸ the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;⁹⁹

c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate for

⁹⁵Sec. 3155(c)(1)(B) of Public Law 103-337 (108 Stat. 3092) struck out "or 144 b." and inserted in lieu thereof "144 b., or 144 d.". Sec. 1505(g) of Public Law 104-106 (110 Stat. 515) subsequently inserted a comma preceding "144 b."

⁹⁶Sec. 3155(c)(1)(C) of Public Law 103-337 (108 Stat. 3092) inserted the parenthetical text.

⁹⁷Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

⁹⁸The text of subsec. b. to this point was added by sec. 301(a)(2) of Public Law 99-64 (99 Stat. 159).

⁹⁹In 1997, the President made such a determination in the case of the Agreement for Cooperation Between the Government of the United States of America and the Swiss Federal Council Concerning Peaceful Uses of Nuclear Energy (Presidential Determination No. 98-1 of October 8, 1997; 62 F.R. 55139); and in the case of the Agreement for Cooperation Between the Government of the United States of America and the Republic of Kazakhstan Concerning Peaceful Uses of Nuclear Energy (Presidential Determination No. 98-5 of November 17, 1997; 62 F.R. 63619).

In 1998, the President made such a determination in the case of the Agreement for Cooperation Between the Government of the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy (Presidential Determination No. 98-21 of April 28, 1998; 63 F.R. 26419); and in the case of the Agreement for Cooperation Between the Government of the United States of America and the Government of Romania Concerning Peaceful Uses of Nuclear Energy (Presidential Determination No. 98-33 of July 15, 1998; 63 F.R. 39695).

In 1999, the President made such a determination in the case of the Protocol Amending the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada signed at Washington on June 15, 1955 (Presidential Determination No. 99-30 of June 23, 1999; 64 F.R. 35921); and in the case of the proposed Agreement for Cooperation Between the United States of America and Australia Concerning Technology for the Separation of Isotopes and Uranium by Laser Excitation (Presidential Determination No. 00-3 of October 25, 1999; 64 F.R. 58757).

In 2000, the President made such a determination in the case of the Agreement for Cooperation Between the United States of America and the Republic of Turkey Concerning Peaceful Uses of Nuclear Energy (Presidential Determination No. 2000-26 of July 7, 2000).

¹⁰⁰Sec. 15(f)(5) of Public Law 103-437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however,* That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

d.¹⁰¹ the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on Foreign Affairs^{100, 102} of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,⁸⁹ the Committee on Armed Services¹⁰² of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint¹⁰³ resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,¹⁰⁴ when required by subsection 123 a., have been¹⁰⁵ submitted to the Congress: *Provided further,* That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement.¹⁰⁶ During the sixty-day period the Committee on Foreign Affairs^{100, 102} of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether

¹⁰¹Sec. 3155(b) of Public Law 103-337 (108 Stat. 3092) provided the following:

“(b) APPLICABILITY OF NOTICE AND WAIT PROVISIONS.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act, as inserted by subsection (a), until December 31, 1995.”

¹⁰²Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

¹⁰³Sec. 301(b)(1) of Public Law 99-64 changed the requirement from a concurrent to a joint resolution.

¹⁰⁴Sec. 1225(d)(4)(B)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out “Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency,” and inserted in lieu thereof “Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto.”

¹⁰⁵Sec. 1225(d)(4)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out “has been” and inserted in lieu thereof “have been”.

¹⁰⁶The second proviso of subsec d. was added by sec. 301(b)(2) of Public Law 99-64.

it should be approved or disapproved.¹⁰⁷ Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 i. of this Act for the consideration of Presidential submissions.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.)⁸⁹ to the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy,¹⁰⁸ and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

Sec. 124.¹⁰⁹ **International Atomic Pool.**—The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the non-military applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 54 a., 57, 64, 82, 103, 104, or 114 a.: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.

Sec. 125.¹¹⁰ **Cooperation With Berlin.**—The President may authorize the Commission to enter into agreement for cooperation with the Federal Republic of Germany in accordance with section 123, on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may thereafter cooperate with Berlin pursuant to sections 54 a., 57, 64, 82, 103, or 104: *Provided,* That the guaranties required by section 123 shall be made by Berlin with the approval of the allied commandants.

Sec. 126.¹¹¹ **Export Licensing Procedures.**—

¹⁰⁷This sentence was added by sec. 301(a)(3) of Public Law 99-64.

¹⁰⁸Sec. 1225(d)(4)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Arms Control and Disarmament Agency,".

¹⁰⁹42 U.S.C. 2154.

¹¹⁰Sec. 125 was added by Public Law 85-14 (71 Stat. 11).

¹¹¹42 U.S.C. 2155. Sec. 126 was added by sec. 304(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 131).

a. No license may be issued by the Nuclear Regulatory Commission (the "Commission") for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

(1) The Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures,¹¹² including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, and the Nuclear Regulatory Commission,¹¹³ for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time

¹¹² See text of procedures in *Legislation on Foreign Relations*, vol. V, sec. L.

¹¹³ Sec. 1225(d)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission" and inserted in lieu thereof "and the Nuclear Regulatory Commission,".

for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provision of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 403 or 404(a) of the Nuclear Non-Proliferation Act of 1978;

(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 127 of this Act will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 127 of this Act or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 for a period of thirty days after enactment of this section, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1978; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 127 of this Act, but which has not yet agreed to comply with those provisions

would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act; *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no materially changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no materially changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such findings in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

b. (1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense

and security, the proposed export may be authorized by Executive order.¹¹⁴ *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g.) and shall be referred to the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978 shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such licenses and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export beings would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of any additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceed-

¹¹⁴Pursuant to Presidential Memorandum of Oct. 3, 1980 (45 F.R. 67629), the Secretary of State is authorized to determine the "time, terms, and conditions of exports made pursuant to any Executive Order" issued under this paragraph. This memorandum also authorized the Secretary, on behalf of the President, to issue "such rules, regulations and procedures" as deemed necessary in order to exercise the functions delegated by the memorandum.

ings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection a. (1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection a. (1) of this section.

c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this Act, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs¹⁰⁰ of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.

Sec. 127.¹¹⁵ Criteria Governing United States Nuclear Exports.—

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained

¹¹⁵ 42 U.S.C. 2156. Sec. 127 was added by sec. 305 of the Nuclear Non-Proliferation Act of 1978 (92 Stat 136).

for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.

Sec. 128.¹¹⁶ Additional Export Criterion and Procedures.—

a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment of this section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section, except as provided in the following paragraphs:

(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: *Provided*, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's de-

¹¹⁶ 42 U.S.C. 2157. Sec. 128 was added by sec. 306 of the Non-Proliferation Act of 1978 (92 Stat. 137).

termination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on Foreign Affairs¹¹⁷ of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

Sec. 129.¹¹⁸ Conduct Resulting in Termination of Nuclear Exports.—

No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section,

- (A) detonated a nuclear explosive device; or
- (B) terminated or abrogated IAEA safeguards; or

¹¹⁷Sec. 15(f)(5) of Public Law 103-437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

¹¹⁸42 U.S.C. 2158. Sec. 129 was added by sec. 307 of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242; 92 Stat. 138).

- (C) materially violated an IAEA safeguards agreement;
or
(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or
- (2) any nation or group of nations that is found by the President to have, at any time after the effective date of this section,

(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 402(a) of the Nuclear Non-Proliferation Act of 1978; or

(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(C) entered into an agreement after the date of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines¹¹⁹ that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs¹¹⁷ of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Sec. 130.¹²⁰ **Congressional Review Procedures.—**

¹¹⁹The President made such a determination relating to Romania on August 30, 1993 (Presidential Determination No. 93-36; 58 F.R. 48261).

¹²⁰42 U.S.C. 2159. Sec. 130 was added by sec. 308 of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 139).

a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by subsection 126 a. (2), 126 b. (2), 128 b., 129, 131 a. (3), or 131 f. (1)(A) of this Act, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹¹⁷ of the House of Representatives,¹²¹ shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission.¹²² If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

b. When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection a.) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection a., as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

c. Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection d.

d. Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate

¹²¹At this point, sec. 301(c)(1) of Public Law 99-64 (99 Stat. 160) struck out the following words: “, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.”

¹²²At this point, sec. 301(c)(1) of Public Law 99-64 (99 Stat. 160) struck out the following words: “and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution”.

House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, “does not” in lieu of the word “does” if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

e. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

f. For the purposes of subsections a. through e. of this section, the term “resolution” means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: “That the Congress (does or does not) favor the transmitted to the Congress by the President on, ..”, the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parentheses to be appropriately selected.

g. (1) Except as provided in paragraph (2), for¹²³ the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the

computation of any period of time in which Congress is in continuous session.

(2) For purposes of this section insofar as it applies to section 123—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.¹²⁴

h. This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection f. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

i.¹²⁵ (1) For the purposes of this subsection, the term “joint resolution” means a joint resolution, the matter after the resolving clause of which is as follows: “That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the

¹²³The text to this point, beginning with “g. (1)” was inserted in lieu of “For”, by sec. 301(c)(1) of Public Law 99-64 (99 Stat. 160).

¹²⁴Par. 2 was added by sec. 301(c)(2)(A) of Public Law 99-64 (99 Stat. 160).

¹²⁵Subsec. (i) was added by sec. 301(c)(2)(B) of Public Law 99-64 (99 Stat. 161).

Congress by the President on _____.”, with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parentheses appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 123 d., a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs,¹²⁶ for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 91 c., 144 b., or 144 c., the Committee on Armed Services.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter, except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution in that

¹²⁶Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

House, that House received a joint resolution with respect to the same matter from the other House, then—

(A) the procedures in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

Sec. 131.¹²⁷ Subsequent Arrangements.—

a. (1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with¹²⁸ the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Secretary of State is required¹²⁹ to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the requirement to prepare a Nuclear Proliferation Assessment Statement¹³⁰ shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection c. for the preparation of such Statement, whichever occurs first.¹³¹

(2) If in the view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission¹³² a proposed subsequent arrangement might significantly contribute to proliferation, the Secretary of State, in consultation with such Secretary or the Commission, shall prepare¹³³ an unclassified Nuclear Proliferation As-

¹²⁷ 42 U.S.C. 2160. Sec. 131 was added by sec. 303(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 127).

¹²⁸ Sec. 1225(d)(6)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Director,".

¹²⁹ Sec. 1225(d)(6)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Director declares that he intends" and inserted in lieu thereof "the Secretary of State is required".

¹³⁰ Sec. 1225(d)(6)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "the Director's declaration" and inserted in lieu thereof "the requirement to prepare a Nuclear Proliferation Assessment Statement".

¹³¹ Sec. 406 of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 148) provided that "No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement called for in this Act or in the 1954 Act."

¹³² Sec. 1225(d)(6)(B)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "Director's view" and inserted in lieu thereof "view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission".

¹³³ Sec. 1225(d)(6)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out "he shall prepare" and

essment Statement¹³¹ with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term "subsequent arrangements" means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

(A) contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to this Act which is not subject to the procedures set forth in section 111 b., section 126, or section 109 b.;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of this Act.

(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection a. (1).

b. With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

¹³¹ inserted in lieu thereof "the Secretary of State, in consultation with such Secretary or the Commission, shall prepare".

(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on Foreign Affairs¹³⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and

(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in this view, and that of the Secretary of State, satisfy the standards set forth in the paragraph (2).

c. The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually

¹³⁴Sec. 15(f)(6)(A) of Public Law 103-437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

agreeable to the Secretaries of State, Defense, and Commerce¹³⁵ and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section.¹³⁶ Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Secretary of State¹³⁷ shall so declare in his response to the Department of Energy. If the Secretary of State¹³⁷ declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Secretary of State's¹³⁷ request, the President waives the sixty-day requirement and notifies the Committee on Foreign Affairs¹³⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

d. Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 105 of the Nuclear Non-Proliferation Act of 1978; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor the preju-

¹³⁵Sec. 1225(d)(7)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out “, the Director of the Arms Control and Disarmament Agency,”.

¹³⁶See text of procedures in *Legislation on Foreign Relations*, vol. V, sec. L.

¹³⁷Sec. 1225(d)(7)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-774) struck out “Director” in the sixth and seventh sentence of this subsec., and inserted in lieu thereof “Secretary of State”. In the seventh sentence, “Director’s” was replaced with “Secretary of State’s”, pursuant to sec. 1225(d)(7)(C) of that Act.

dice open and objective consideration of the results of the evaluation.

e. Notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section.

f. (1) With regard to any subsequent arrangement under subsection a. (2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and has been referred to the Committee on Foreign Affairs¹³⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), which plan has been referred to the Committee on Foreign Affairs¹³⁴ of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions;

(B) The Secretary of Energy has complied with subsection a.; and

(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this Act, under sections 54 and 55 and any other applicable sections, and any other requirements of law.

(2) Subsection (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 54 or 55 of this Act of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees

on Foreign Affairs¹³⁴ and Science, Space, and Technology¹³⁸ of the House of Representatives and the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

(3) Any plan submitted by the President under subsection f. (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings.

(4) For the purposes of this subsection, the term "foreign spent nuclear fuel" shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or the reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.

Sec. 132.¹³⁹ Authority to Suspend Nuclear Cooperation with Nations Which Have Not Ratified the Convention on the Physical Security of Nuclear Material.—

The President may suspend nuclear cooperation under this Act with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.

Sec. 133.¹⁴⁰ Consultation with the Department of Defense Concerning Certain Exports and Subsequent Arrangements.—

a. In addition to other applicable requirements—

(1) a license may be issued by the Nuclear Regulatory Commission under this Act for the export of special nuclear material described in subsection b.; and

(2) approval may be granted by the Secretary of Energy under section 131 of this Act for the transfer of special nuclear material described in subsection b.;

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

¹³⁸ Sec. 15(f)(6)(B) of Public Law 103-437 (108 Stat. 4593) struck out "Science and Technology" and inserted in lieu thereof "Science, Space, and Technology". Sec. 1(a)(10) of Public Law 104-14 (109 Stat. 187) subsequently provided that references to the Committee on Science, Space, and Technology of the House of Representatives shall be treated as referring to the Committee on Science of the House of Representatives.

¹³⁹ 42 U.S.C. 2160b. Sec. 132 was added by sec. 602 of Public Law 99-399 (100 Stat. 875).

¹⁴⁰ 42 U.S.C. 2160c. Sec. 133 was added by sec. 603 of Public Law 99-399 (100 Stat. 875).

b. Subsection a. applies to the export or transfer of more than 2 kilograms of plutonium or more than 5 kilograms¹⁴¹ of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.

Sec. 134.¹⁴² Further Restrictions on Exports.—

a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

b. As used in this section—

(1) the term “alternative nuclear reactor fuel or target” means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

(2) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235; and

(3) a fuel or target “can be used” in a nuclear research or test reactor if—

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

CHAPTER 12. CONTROL OF INFORMATION

Sec. 141.¹⁴³ Policy.—It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in

¹⁴¹ Sec. 829 of Public Law 103-236 (108 Stat. 521) struck out “20 kilograms” and inserted in lieu thereof “5 kilograms”.

¹⁴² 42 U.S.C. 2160d. Sec. 903(a)(1) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 2944) added sec. 134.

Sec. 903(b) of that Act further provided the following:

“(b) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

“(A) their location;

“(B) whether they are irradiated;

“(C) whether they have been used for the purpose stated in their export license; and

“(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

“(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

“(A) exports of highly enriched uranium to EURATOM; and

“(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.”.

¹⁴³ 42 U.S.C. 2161.

such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144; and

b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

Sec. 142.¹⁴⁴ Classification and Declassification of Restricted Data.—

a. The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

b. The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

c. In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

d. The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense

¹⁴⁴ 42 U.S.C. 2162. Subsection f. to this section, added by sec. 3152 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644), was repealed by sec. 3155(c)(3) of Public Law 103-337 (108 Stat. 3092). It formerly provided as follows:

“f. Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.”

Sec. 3155 of Public Law 104-106 (110 Stat. 625; 42 U.S.C. 2162 note) provided the following: “SEC. 3155. REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.

“(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains restricted data.

“(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order 12958 if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing restricted data.

“(c) RESTRICTED DATA DEFINED.—In this section, the term ‘restricted data’ has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).”

information: *Provided, however*, That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection b. or d. of section 144.¹⁴⁵

e. The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information.

Sec. 143.¹⁴⁶ **Department of Defense Participation.**—The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under subsection 145 b. and 145 c.¹⁴⁷ to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however*, That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further*, That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 145.

Sec. 144.¹⁴⁸ **International Cooperation.**—

a. The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

- (1) refining, purification, and subsequent treatment of source material;
- (2) civilian reactor development;
- (3) production of special nuclear material;
- (4) health and safety;
- (5) industrial and other applications of atomic energy for peaceful purposes; and

¹⁴⁵Sec. 3155(c)(2) of Public Law 103-337 (108 Stat. 3092) struck out “subsection 144 b.” and inserted in lieu thereof “subsection b. or d. of section 144.”

¹⁴⁶42 U.S.C. 2163.

¹⁴⁷Sec. 14 of Public Law 84-1006 (70 Stat. 1069) added the words “or any other person authorized access to Restricted Data by the Commission under subsection 145 b.”. Sec. 5 of Public Law 87-206 (75 Stat. 475) deleted the words “subsection 145 b.,” and substituted in lieu thereof “subsections 145 b. and 145 c.”

¹⁴⁸42 U.S.C. 2164. Sec. 3154(a) of Public Law 104-106 (110 Stat. 624; 42 U.S.C. 2164 note) provided the following:

“SEC. 3154. PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

“(a) PROHIBITION ON INSPECTIONS.—(1) The Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

“(2) For purposes of paragraph (1), the term ‘restricted data’ has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).”

(6) research and development relating to the foregoing: *Provided, however,* That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123, or is undertaken pursuant to an agreement existing on the effective date of this act.¹⁴⁹

b.¹⁵⁰ The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

- (1) the development of defense plans;
- (2) the training of personnel in the employment of and defense against atomic weapons; and other military applications of atomic energy;
- (3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and
- (4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

c.¹⁵¹ In addition to the cooperation authorized in subsections 144 a. and 144 b., the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

¹⁴⁹Sec. 5 of Public Law 85-479 (72 Stat. 276) amended subsec. a of sec. 144 by inserting the word "civilian" before the words "reactor development" in clause (2).

¹⁵⁰Sec. 6 of Public Law 85-479 (72 Stat. 276) amended sec. 144 by substituting a new subsec. b. Subsec. b. previously read as follows:

"b. The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data as is necessary to—

- (1) the development of defense plans;
- (2) the training of personnel in the employment of and defense against atomic weapons; and
- (3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons.

"While such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That no such cooperation shall involve communication of Restricted Data relating to the design or fabrication of atomic weapons except with regard to external characteristics, including size, weight, and shape, yields and effects, and systems employed in the delivery or use thereof but not including any data in these categories unless in the joint judgment of the Commission and the Department of Defense such data will not reveal important information concerning the design or fabrication of the nuclear components of an atomic weapon: *And provided further,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123."

¹⁵¹Sec. 7 of Public Law 85-479 (72 Stat. 276) amended sec. 144 by adding subsections c and d (redesignated as subsec. e.).

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided*, That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, or military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

d.¹⁵² (1) In addition to the cooperation authorized in subsections a., b., and c., the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 142, as is necessary for—

(A) the support of a program for the control of and accounting for fissile material and other weapons material;

(B) the support of the control of and accounting for atomic weapons;

(C) the verification of a treaty; and

(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

(A) will promote the common defense and security interests of the United States and the nation concerned; and

(B) will not constitute an unreasonable risk to such common defense and security interests.

(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.

e.¹⁵³ The President may authorize an agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection

¹⁵²Sec. 3155(a)(2) of Public Law 103-337 (108 Stat. 3091) added subsec. d.

¹⁵³This subsection, added as subsec. d. by sec. 7 of Public Law 85-479 (72 Stat. 276), was redesignated as subsec. e. by sec. 3155(a)(1) of Public Law 103-337 (108 Stat. 3091).

144 a., b., c., or d.,¹⁵⁴ such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

Sec. 145.¹⁵⁵ Restrictions.—

a. No arrangement shall be made under section 31, no contract shall be made or continued in effect under section 41, and no license shall be issued under section 103 or 104, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

b. Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

* * * * *

Sec. 147.¹⁵⁶ Safeguards Information.—

a. In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5 of the United States Code, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

(1) control and accounting procedures or security measures (including security plans, procedures or equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

(2) security measures (including security plans, procedures and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or

¹⁵⁴Sec. 3155(c)(4) of Public Law 103-337 (108 Stat. 3092) struck out "or c." and inserted in lieu thereof "c., or d."

¹⁵⁵42 U.S.C. 2165.

¹⁵⁶42 U.S.C. 2167. Sec. 147 was added by sec. 207(a)(1) of Public Law 96-295 (94 Stat. 788).

utilization facilities involving nuclear materials covered by paragraphs (1) and (2) if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this Act shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

c. Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5 of the United States Code.

d. Upon prescribing or issuing any regulation or order under subsection a. of this section, the Commission shall submit to Congress a report that:

(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

e. In addition to the reports required under subsection d. of this section, the Commission shall submit to Congress on a quarterly

basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

(1) identify any information protected from disclosure pursuant to such regulation or order;

(2) specifically state the Commission's justification for determining that unauthorized disclosure of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion or sabotage of such material, or such facility, as specified under subsection a. of this section; and

(3) provide justification that the Commission has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.

Sec. 148.¹⁵⁷ Prohibition Against the Dissemination of Certain Unclassified Information.—

a. (1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, United States Code, the Secretary of Energy (hereinafter in this section referred to as the "Secretary"), with respect to atomic energy defense programs,¹⁵⁸ shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to—

(A) the design of production facilities or utilization facilities;

(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 142.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production,

¹⁵⁷ 42 U.S.C. 2168. Sec. 210(a)(1) of Public Law 97-90 (95 Stat. 1169) added sec. 148.

¹⁵⁸ Sec. 17(a) of Public Law 97-415 (96 Stat. 2076) added the words " , with respect to atomic energy defense programs,".

theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in subsection a. (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

b. (1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed \$100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

(2) The provisions of subsections b. and c. of section 234 of this Act shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection a. of such section.

c. For the purposes of section 223 of this Act, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

d.¹⁵⁹ Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

e.¹⁵⁹ The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

(1) identify any information protected from disclosure pursuant to such regulation or order;

(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of

¹⁵⁹Sec. 17(b) of Public Law 97-415 (96 Stat. 2076) added subsecs. d. and e.

nuclear materials, equipment, or facilities, as specified under subsection a.; and

(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.

Sec. 149.¹⁶⁰ Fingerprinting for Criminal History Record Checks.—

a. The Nuclear Regulatory Commission (in this section referred to as the "Commission") shall require each licensee or applicant for a license to operate a utilization facility under section 103 or 104 b. to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 147. All fingerprints obtained by a licensee or applicant as required in the preceding sentence shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the licensee or applicant submitting such fingerprints.

b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

c. For purposes of administering this section, the Commission shall prescribe, subject to public notice and comment, regulations—

(1) to implement procedures for the taking of fingerprints;

(2) to establish the conditions for use of information received from the Attorney General, in order—

(A) to limit the dissemination of such information;

(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to the facility of a licensee or applicant or shall be permitted access to safeguards information under section 147;

(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

¹⁶⁰ 42 U.S.C. 2169. Sec. 149 was added by sec. 606 of Public Law 99-399 (100 Stat. 876).

(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

d. (1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

(2) Notwithstanding section 3302(b) of title 31, United States Code, and to the extent approved in appropriation Acts—

(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

(3) Any amount made available for use under paragraph (2) shall remain available until expended.

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CHAPTER 17. JOINT COMMITTEE ON ATOMIC ENERGY

[REPEALED—1977]¹⁶¹

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CHAPTER 19. MISCELLANEOUS

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Sec. 251.¹⁶² **Report to Congress.**—* * * [Repealed—1997]

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CHAPTER 20.¹⁶³ JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED; FUNCTIONS AND RESPONSIBILITIES REASSIGNED

Sec. 301.¹⁶⁴ **Joint Committee on Atomic Energy Abolished.**—

a. The Joint Committee on Atomic Energy is abolished.

b. Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after the date of enactment of this section, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

c. All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record,

¹⁶¹Sec. 302(a) of this Act, as added by Public Law 95-110, repealed ch. 17. For matters regarding the reassignment of functions and responsibilities of the Joint Committee, see ch. 20.

¹⁶²Sec. 3152(a)(1) of Public Law 105-85 (111 Stat. 2042) repealed sec. 251, which had required the Commission to report annually to Congress on its activities.

¹⁶³Chapter 20 was added by Public Law 95-110 (91 Stat. 884).

¹⁶⁴42 U.S.C. 2258.

data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

Sec. 302. Transfers of Certain Functions of the Joint Committee on Atomic Energy and Conforming Amendments to Certain Other Laws.—

a. Effective on the date of enactment of this section, chapter 17 of this Act is repealed.

b. Section 103 of the Atomic Energy Community Act of 1955, as amended, is repealed.

c. Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the subsection designation “(a)”; and

(2) repealing subsection (b).

d. Section 252(a)(3) of the Legislative Reorganization Act of 1970 is repealed.

Sec. 303.¹⁶⁵ Information and Assistance to Congressional Committees.—

a. The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

b. The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

c. Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

d. The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however,* That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of

¹⁶⁵ 42 U.S.C. 2259.

Representatives, the prior written consent of the Committee on House Oversight.¹⁶⁶

* * * * *

TITLE II—UNITED STATES ENRICHMENT CORPORATION

* * *

NOTE.—Sec. 3116(a) of the USEC Privatization Act (subchapter A of chapter 1 of title III of Public Law 104-134; 110 Stat. 349) repealed chapters 22 through 26 of this Act, upon privatization of the United States Enrichment Corporation. See freestanding text of USEC Privatization Act, beginning at page 1885.

¹⁶⁶Sec. 222(2) of Public Law 104-186 (110 Stat. 1751) struck out “House Administration” and inserted in lieu thereof “House Oversight”.

(2) North Korea Threat Reduction Act of 1999

Partial text of Public Law 106-113 [H.R. 3194], 113 Stat. 1501, approved
November 29, 1999

* * * * *

Subtitle B—North Korea Threat Reduction¹

SEC. 821. SHORT TITLE.

This subtitle may be cited as the “North Korea Threat Reduction Act of 1999”.

SEC. 822. RESTRICTIONS ON NUCLEAR COOPERATION WITH NORTH KOREA.

(a) IN GENERAL.—Notwithstanding any other provision of law or any international agreement, no agreement for cooperation (as defined in sec. 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 b.)) between the United States and North Korea may become effective, no license may be issued for export directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, and no approval may be given for the transfer or retransfer directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, until the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

(2) North Korea has permitted the IAEA full access to all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea’s initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea;

(3) North Korea is in full compliance with its obligations under the Agreed Framework;

(4) North Korea has consistently taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization (excluding in the case of numbered paragraph 3 facilities frozen pursuant to the Agreed Framework);

¹Subtitle B of title VIII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113.

(5) North Korea does not have uranium enrichment or nuclear reprocessing facilities (excluding facilities frozen pursuant to the Agreed Framework), and is making no significant progress toward acquiring or developing such facilities;

(6) North Korea does not have nuclear weapons and is making no significant effort to acquire, develop, test, produce, or deploy such weapons; and

(7) the transfer to North Korea of key nuclear components, under the proposed agreement for cooperation with North Korea and in accordance with the Agreed Framework, is in the national interest of the United States.

(b) CONSTRUCTION.—The restrictions contained in subsection (a) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

SEC. 823. DEFINITIONS.

In this subtitle:

(1) AGREED FRAMEWORK.—The term “Agreed Framework” means the “Agreed Framework Between the United States of America and the Democratic People’s Republic of Korea”, signed in Geneva on October 21, 1994, and the Confidential Minute to that Agreement.

(2) IAEA.—The term “IAEA” means the International Atomic Energy Agency.

(3) NORTH KOREA.—The term “North Korea” means the Democratic People’s Republic of Korea.

(4) JOINT DECLARATION ON DENUCLEARIZATION.—The term “Joint Declaration on Denuclearization” means the Joint Declaration on the Denuclearization of the Korean Peninsula, issued by the Republic of Korea and the Democratic People’s Republic of Korea on January 1, 1992.

(3) USEC Privatization Act

Partial text of Public Law 104-134 [Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321, approved April 26, 1996

AN ACT Making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

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

* * * * *

TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

ENERGY AND WATER DEVELOPMENT

SUBCHAPTER A—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

SEC. 3101.¹ SHORT TITLE.

This subchapter may be cited as the “USEC Privatization Act”.

SEC. 3102.² DEFINITIONS.

For purposes of this subchapter:

(1) The term “AVLIS” means atomic vapor laser isotope separation technology.

(2) The term “Corporation” means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term “gaseous diffusion plants” means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term “highly enriched uranium” means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term “low-enriched uranium” means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term “low-level radioactive waste” has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term “private corporation” means the corporation established under section 3105.

¹42 U.S.C. 2011 note.

²42 U.S.C. 2297h.

(8) The term “privatization” means the transfer of ownership of the Corporation to private investors.

(9) The term “privatization date” means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term “public offering” means an underwritten offering to the public of the common stock of the private corporation pursuant to section 3104.

(11) The “Russian HEU Agreement” means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term “Secretary” means the Secretary of Energy.

(13) The “Suspension Agreement” means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term “uranium enrichment” means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 3103.³ SALE OF THE CORPORATION.

(a) **AUTHORIZATION.**—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy’s gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) **PROCEEDS.**—Proceeds from the sale of the United States’ interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 3104.⁴ METHOD OF SALE.

(a) **AUTHORIZATION.**—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 3105 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) **BOARD DETERMINATION.**—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the

³ 42 U.S.C. 2297h-1.

⁴ 42 U.S.C. 2297h-2.

continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 3103(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 3105.⁵ ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private

⁵ 42 U.S.C. 2297h-3.

corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 3106.⁶ TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

- (1) the lease of the gaseous diffusion plants in accordance with section 3107,
- (2) all personal property and inventories of the Corporation,
- (3) all contracts, agreements, and leases under section 3108(a),
- (4) the Corporation's right to purchase power from the Secretary under section 3108(b),
- (5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and
- (6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

* * * * *

SEC. 3112.⁷ URANIUM TRANSFERS AND SALES.

(a) **TRANSFERS AND SALES BY THE SECRETARY.**—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) **RUSSIAN HEU.**—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U²³⁵. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

- (A) at any time for use in the United States for the purpose of overfeeding;
- (B) at any time for end use outside the United States;
- (C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

⁶ 42 U.S.C. 2297h-4.

⁷ 42 U.S.C. 2297h-10.

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235} . Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235} . Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under para-

graph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users

Year:	(millions lbs. U ₃ O ₈ equivalent)
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter ...	20

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any

loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

* * * * *

SEC. 3116. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297-2297e-7) are repealed as of the privatization date.

* * * * *

(4) Establishment of the Enrichment Oversight Committee

Executive Order 13085, May 26, 1998, 63 F.R. 29335, 42 U.S.C. 2297h note ¹

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

Section 1. *Establishment.* There is hereby established as Enrichment Oversight Committee (EOC).

Sec. 2. *Objectives.* the EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 (“HEU Agreement”), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

Sec. 3. *Organization.* (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President’s transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104–134, title III, 3112(b)(1), 110 Stat. 1321–344, 1321–346 (1996).

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy,

¹ See also Executive Order 13159 of June 21, 2000 (65 F.R. 39279), relating to “Blocking property of the Government of the Russian Federation relating to the disposition of highly enriched uranium extracted from nuclear weapons”; *Legislation on Foreign Relations Through 2000*, vol. III.

and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

Sec. 4. HEU Agreement, Oversight. The EOC shall form an HEU Agreement Oversight Subcommittee (the "Subcommittee") in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

Sec. 5. Foreign Ownership, Control, or Influence (FOCI). The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 with respect to the USEC and any successor entities (see National Industrial Security Pro-

gram Operating Manual, Department of Defense 2–3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* (1994), and the USEC Privatization Act, Public Law 104–134, title III, 110 Stat. 1321–335 *et seq.* (1996);

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

Sec. 6. *Domestic Enrichment Services.* The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act, as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provide that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

Sec. 7. *Coordination with the Nuclear Regulatory Commission.* Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance

or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

(5) EURATOM Cooperation Act of 1958, as amended

Public Law 85-846 [S. 4273], 72 Stat. 1084, approved August 28, 1958; as amended by Public Law 87-206, 75 Stat. 479, approved September 6, 1961; Public Law 88-394, 78 Stat. 376, approved August 1, 1964; Public Law 90-190, 81 Stat. 578, approved December 14, 1967; and by Public Law 93-88, 87 Stat. 296, approved August 14, 1973

AN ACT To provide for cooperation with the European Atomic Energy Community.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “EURATOM Cooperation Act of 1958”.

Sec. 2.¹ As used in this Act—

(a) “The Community” means the European Atomic Energy Community (EURATOM).

(b) The “Commission” means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended.

(c) “Joint program” means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this Act shall have the same meaning as terms described in section 11 of the Atomic Energy Act of 1954, as amended.

Sec. 3.² There is hereby authorized to be appropriated to the Commission, in accordance with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, the sum of \$3,000,000³ as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

¹ 42 U.S.C. 2291.

² 42 U.S.C. 2292.

³ Sec. 109 of Public Law 86-50, sec. 109 of Public Law 87-701, sec. 103 of Public Law 88-72, sec. 101(a) of Public Law 88-332, and sec. 101 of Public Law 89-32 authorized appropriation of an additional \$7,000,000, \$5,000,000, \$7,500,000, \$3,000,000, and \$3,000,000, respectively.

Sec. 4.⁴ The Commission is authorized, within limits of amounts which may hereafter be authorized to be appropriated in accordance with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, to make guarantee contracts which shall in the aggregate not exceed a total contingent liability of \$90,000,000 designed to assure that the charges to an operator of a reactor constructed under the joint program for fabricating, processing, and transporting fuel will be no greater than would result under the fuel fabricating and fuel life guarantees which the Commission shall establish for such reactor. Within the limits of such amounts, the Commission is authorized to make contracts under this section, without regard to the provisions of sections 3679 and 3709 of the Revised Statutes, as amended, for such period of time as it determines to be necessary: *Provided, however,* That no such contracts may extend for a period longer than that necessary to cover fuel loaded into a reactor constructed under the joint program during the first ten years of the reactor operation or prior to December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier. In establishing criteria for the selection of projects and in entering into such guarantee contracts, the Commission shall be guided by, but not limited to, the following principles:

(a) The Commission shall encourage a strong and competitive atomic equipment manufacturing industry in the United States designed to provide diversified sources of supply for reactor parts and reactor fuel elements under the joint program;

(b) The guarantee shall be consistent with the provisions of this Act and of Attachment A to the Memorandum of Understanding between the Government of the United States and the Community, signed in Brussels on May 29, 1958, and in Washington, District of Columbia, on June 12, 1958, and transmitted to Congress on June 23, 1958;⁵

(c)⁶ The Commission shall establish and publish criteria for computing the maximum fuel element charge and minimum fuel element life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.

(d) The guarantee by the manufacturer shall be as favorable as any other guarantee offered by the manufacturer for any comparable fuel element within a reasonable time period; and

(e) The Commission shall obtain a royalty-free, nonexclusive, irrevocable license for governmental purposes to any patents on inventions or discoveries made or conceived by the manufacturer in

⁴ 42 U.S.C. 2293.

⁵ Agreement Relating to Programs for Peaceful Applications of Atomic Energy. Signed at Brussels, May 29, 1958, and at Washington, June 18, 1958. Entered into force, August 27, 1958. 9 UST 1116; TIAS 4091; 335 UNTS 161.

The 1958 agreement was approved in the Senate by Senate Concurrent Resolution 116, 85th Congress, 2d session, adopted August 23, 1958; and extended annually from 1980 through early 1996, most recently by Executive Order 12955 (March 9, 1995; 60 F.R. 13365; 42 U.S.C. 2155note).

The requirement for extension was obviated when a new Agreement For Nuclear Cooperation Between the United States and EURATOM was successfully negotiated between the two parties in 1995. The new agreement was ordered executed by Presidential Determination No. 96-4 of November 1, 1995 (60 F.R. 56931), signed in Brussels, November 7, 1995 and March 29, 1996, and entered into force on April 12, 1996.

⁶ Public Law 87-206 (75 Stat. 475), amended sec. 4(c). Prior to amendment it read: "The commission shall establish and publish minimum levels of fuel element cost and life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals."

the course of development or fabrication of fuel elements during the period covered by the Commission's guarantee.

Sec. 5.⁷ Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;⁸

one thousand five hundred kilograms of plutonium; and thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That the Government of the United States obtains the equivalent of a first lien of any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of subsection 161 v. (B) of said Act, as amended in lieu of sale or lease thereof.

Sec. 6.⁹ (a) The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is hereby authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided*, That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for

⁷ 42 U.S.C. 2294. Sec. 13 of Public Law 90-190 (81 Stat. 575) amended sec. 5 by substituting a new section. Sec. 5 previously read as follows:

"Sec. 5. Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community:

"Seventy thousand kilograms of contained uranium 235

"Five hundred kilograms of plutonium

"Thirty kilograms of uranium 233

"In accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 as amended: *Provided*, That the Government of the United States obtains the equivalent of a first lien of any such material sold to the Community for which payment is not made in full at the time of transfer."

Sec. 5 had earlier been amended by Public Law 88-394 (78 Stat. 376), sec. 5, and by Public Law 87-206 (75 Stat. 475), sec. 19.

⁸ Public Law 93-88 (87 Stat. 296), amended this paragraph. Previously, it read "two hundred fifteen thousand kilograms of contained uranium 235;"

⁹ 42 U.S.C. 2295.

a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided*, That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U-235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 3679 of the Revised Statutes, as amended.

(e) Any contract made under this section may be made without regard to section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

Sec. 7.¹⁰ The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided however*, That nothing in this section shall deprive any person of any rights under section 170 of the Atomic Energy Act of 1954, as amended. *And provided further*, That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 3.¹¹ The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.¹²

¹⁰42 U.S.C. 2296.

¹¹The proviso was added by Public Law 87-206 (75 Stat. 475).

¹²Sec. 903(b) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 2944) provided the following:

“(b) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

“(A) their location;

“(B) whether they are irradiated;

“(C) whether they have been used for the purpose stated in their export license; and

“(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

“(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

“(A) exports of highly enriched uranium to EURATOM; and

“(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.”

(6) Agreement for Nuclear Cooperation Between the United States and China¹

Public Law 99-183 [S.J. Res. 238], 99 Stat. 1174, approved December 16, 1985

JOINT RESOLUTION Relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Congress does favor the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985 (hereafter in this joint resolution referred to as the "Agreement").

(2) Notwithstanding section 123 of the Atomic Energy Act of 1954, the Agreement becomes effective in accordance with the provisions of this joint resolution and other applicable provisions of law.

(b) Notwithstanding any other provision of law or any international agreement, no license may be issued for export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement, and no approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be given—

¹Sec. 3137 of Public Law 104-201 (110 Stat. 2831) provided the following:

"SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.

"(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

"(b) REPORT.—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

"(A) the authority under which the discussion or activity took or will take place;

"(B) the subject of the discussion or activity;

"(C) participants or likely participants;

"(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

"(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

"(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997."

See also sec. 1305—Report on Military Capabilities of People's Republic of China, sec. 1306—Presidential Report Regarding Weapons Proliferation and Policies of the People's Republic of China, and sec. 1307—United States-People's Republic of China Joint Defense Conversion Commission, in Public Law 104-201, beginning at page 1913.

(1) until the expiration of a period of thirty days of continuous session of Congress after the President has certified to the Congress that—²

(A) the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement;

(B) the Government of the People's Republic of China has provided additional information concerning its nuclear nonproliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and

(C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request; and

(2) until the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the history and current developments in the nonproliferation policies and practices of the People's Republic of China.

The report described in paragraph (2) shall be submitted in unclassified form with a classified addendum.

(c) Each proposed export pursuant to the Agreement shall be subject to United States laws and regulations in effect at the time of each such report.

(d) Nothing in the Agreement or this joint resolution may be construed as providing a precedent or other basis for the negotiation or renegotiation of any other agreement for nuclear cooperation.

(e) For purposes of subsection (b)—

(1) the continuity of a session of Congress is broken only by adjournment of the Congress sine die at the end of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

²On January 12, 1998, the President made this certification (Presidential Determination No. 98-10; 63 F.R. 3447). That determination also included the certification required by sec. 902(a)(6)(B)(i) of Public Law 101-246.

(7) International Atomic Energy Agency Participation Act of 1957, as amended

Partial text of Public Law 85-177 [H.R. 8992], 71 Stat. 453, approved August 28, 1957; as amended by Public Law 85-795, 72 Stat. 959, approved August 28, 1958; Public Law 89-348, 79 Stat. 1310, approved November 8, 1965; Public Law 96-465 [H.R. 6790], 94 Stat. 2071 at 2161, approved October 17, 1980; Public Law 103-437 [U.S.C. Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; and by Public Law 106-113 [H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Atomic Energy Agency Participation Act of 1957".

Sec. 2.¹ (a) The President, by and with the advice and consent of the Senate, shall appoint a representative and a deputy representative of the United States to the International Atomic Energy Agency (hereinafter referred to as the "Agency"), who shall hold office at the pleasure of the President. Such representative and deputy representative shall represent the United States on the Board of Governors of the Agency, may represent the United States at the General Conference, and may serve ex officio as United States representative on any organ of that Agency, and shall perform such other functions in connection with the participation of the United States in the Agency as the President may from time to time direct. The Representatives of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency.²

(b) The President, by and with the advice and consent of the Senate, may appoint or designate from time to time to attend a specified session or specified sessions of the General Conference of the Agency a representative of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Conference.

(c) The President may also appoint or designate from time to time such other persons as he may deem necessary to represent the United States in the organs of the Agency. The President may designate any officer of the United States Government, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States on the Board of Governors or to the General

¹22 U.S.C. 2021.

²Sec. 708(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added this sentence.

Conference of the Agency in the absence or disability of the representative and deputy representative appointed under section 2(a) or in lieu of such representatives in connection with a specified subject matter.

(d) All persons appointed or designated in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsection (b) or subsection (c) of this section as a delegate or representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation.³ Any person who receives compensation pursuant to the provisions of this subsection may be granted allowances and benefits not to exceed those received under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service and Foreign Service officers occupying positions of equivalent importance.⁴

Sec. 3.⁵ The participation of the United States in the International Atomic Energy Agency shall be consistent with and in furtherance of the purposes of the Agency set forth in its statute and the policy concerning the development, use, and control of atomic energy set forth in the Atomic Energy Act of 1954, as amended. [The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress on the activities of the International Atomic Energy Agency and on the participation of the United States therein.]⁶ In addition to any other requirements of law, the Department of State and the Atomic Energy Commission shall keep the Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate,⁷ as appropriate, currently informed

³References in this subsection to sections of the Foreign Service Act of 1980 and to the Senior Foreign Service were inserted by sec. 2206(a)(7) of Public Law 94-465 (94 Stat. 2161), effective Feb. 15, 1981. These replaced a reference to secs. 411 and 412 of the Foreign Service Act of 1946.

⁴The references to the Foreign Service Act of 1980 and to the Senior Foreign Service were inserted by sec. 2206(a)(7) of Public Law 96-465 (94 Stat. 2161), effective Feb. 15, 1981.

⁵22 U.S.C. 2022.

⁶Public Law 89-348 (79 Stat. 1310, sec. 1(20)), amended Public Law 85-177 by repealing the requirement of a report to the Congress by the President not less than once each year on the activities of the International Atomic Energy Agency and on the participation of the United States therein.

⁷Sec. 9(b) of Public Law 103-437 (108 Stat. 4588) struck out "Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations," and inserted in lieu thereof "Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate." Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(4) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference in any provision of law enacted before January 4, 1995 to the House Committee on Energy and Commerce shall be treated as referring

with respect to the activities of the Agency and the participation of the United States therein.

Sec. 4.⁸ The representatives provided for in section 2 hereof, when representing the United States in the organs of the Agency, shall, at all times, act in accordance with the instructions of the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the statute of the International Atomic Energy Agency.

Sec. 5.⁹ There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the International Atomic Energy Agency as apportioned by the Agency in accordance with paragraph (D) of article XIV of the statute of the Agency, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof and of their appropriate staffs, including personal services without regard to the civil service laws and the Classification Act of 1949, as amended; travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, as amended, and section 10 of the Act of March 3, 1933, as amended; salaries as authorized by the Foreign Service Act of 1980,¹⁰ or as authorized by the Atomic Energy Act of 1954, as amended, and expenses and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980;¹⁰ services as authorized by sec. 15 of the Act of Aug. 2, 1946 (5 U.S.C. 55a);¹¹ translating and other services, by contract; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section II of the Act of March 1, 1919 (44 U.S.C. 111); official functions and courtesies; such sums as may be necessary to defray the expenses of United States participation in the Preparatory Commission for the Agency, established pursuant to annex I of the statute of the Agency; and such other expenses as may be authorized by the Secretary of State.

Sec. 6.¹² (a)¹³ Notwithstanding any other provision of law, Executive order or regulation, a Federal employee who, with the approval of the Federal agency, or the head of the department by which he is employed, leaves his position to enter the employ of the Agency shall not be considered for the purposes of the Civil Service Retirement Act, as amended, and the Federal Employees' Group

to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues.

⁸ 22 U.S.C. 2023.

⁹ 22 U.S.C. 2024.

¹⁰ Reference to the Foreign Service Act of 1980 was inserted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(a)(7) of Public Law 96-465 (94 Stat. 2162), effective Feb. 15, 1981.

¹¹ Public Law 89-554 (80 Stat. 416) codified sec. 15 of the Act of Aug. 2, 1946, as 5 U.S.C. 3109.

¹² 22 U.S.C. 2025.

¹³ Sec. 7 of Public Law 85-795 (72 Stat. 959), approved Aug. 28, 1958, repealed sec. 6(a), "except that it shall be considered to remain in effect with respect to any employee subject thereto who is serving as an employee of the International Atomic Energy Agency on the date of enactment of this Act and who does not make the election referred to in sec. 6 and for the purposes of any rights and benefits vested thereunder prior to such date."

Life Insurance Act of 1954, as amended, as separated from his Federal position during such employment with the Agency but not to extend beyond the first three consecutive years of his entering the employ of the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission¹⁴ within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the International Atomic Energy Agency. If such employee, within three years from the date of his employment with the Agency, and within ninety days from the date he is separated without prejudice from the Agency, applies to be restored to his Federal position, he shall within thirty days of such application be restored to such position or to a position of like seniority, status and pay.

(b) Notwithstanding any other provision of law, Executive order or regulation, any Presidential appointee or elected officer who leaves his position to enter, or who within ninety days after the termination of his position enters, the employ of the Agency, shall be entitled to the coverage and benefits of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, but not beyond the earlier of either the termination of his employment with the Agency or the expiration of three years from the date he entered employment with the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission¹⁴ within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the agency and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the Agency.

(c) The President is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to protect the retirement, insurance and such other civil service rights and privileges as the President may find appropriate.

* * * * *

Sec. 8.¹⁵ In the event of an amendment to the Statute of the Agency being adopted in accordance with article XVIII-C of the Statute to which the Senate by formal vote shall refuse its advice and consent, upon notification by the Senate to the President of such refusal to advise and consent, all further authority under section¹⁶ 2, 3, 4, and 5 of this Act, as amended, shall terminate: *Provided, however*, That the Secretary of State, under such regulations as the President shall promulgate, shall have the necessary author-

¹⁴The Office of Personnel Management was substituted for the Civil Service Commission pursuant to sec. 102 of Reorganization Plan No. 2 of 1978.

¹⁵22 U.S.C. 2026.

¹⁶Should read "sections".

ity to complete the prompt and orderly settlement of obligations and commitments to the Agency already incurred and pay salaries, allowances, travel expenses, and other expenses required for a prompt and orderly termination of United States participation in the Agency: *And provided further*, That the representative and the deputy representative of the United States to the Agency, and such other officers or employees representing the United States in the Agency, under such regulations as the President shall promulgate, shall retain their authority under this Act for such time as may be necessary to complete the settlement of matters arising out of the United States participation in the Agency.

p. Executive Orders Concerning International Atomic Energy Cooperation

(1) Authorization for the Communication of Restricted Data by the Department of State

Executive Order 11057, October 18, 1962, 27 F.R. 10289, 42 U.S.C. 2162 note

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the Act (42 U.S.C. 2164(b)), such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission¹ and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, That no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures, adopted by the Atomic Energy Commission¹ and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission¹ and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

¹ Functions of the Atomic Energy Commission under this Executive Order were modified so that such functions would be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, pursuant to sec. 4(a)(1) of Executive Order 12038 (Feb. 3, 1978; 43 F.R. 4957).

**(2) Authorization for the Communication of Restricted Data
by the Central Intelligence Agency**

Executive Order 10899, December 9, 1960, 25 F.R. 12729, 42 U.S.C. 2162 note

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the Act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission¹ and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, That no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission¹ and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission¹ and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

¹ Functions of the Atomic Energy Commission under this Executive Order were modified so that such functions would be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, pursuant to sec. 4(a)(1) of Executive Order 12038 (Feb. 3, 1978; 43 F.R. 4957).

(3) Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1954, as amended, Relating to International Cooperation

Executive Order 10841, September 30, 1959, 24 F.R. 7941, 42 U.S.C. 2153 note; as amended by Executive Order 10956, August 12, 1961, 26 F.R. 7315, 3 CFR 1959-63 Comp., p. 482; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), herein referred to as the Act, and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. Whenever the President, pursuant to section 123 of the Act, has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act (42 U.S.C. 2121(c), 2164(a), 2164(b), 2164(c)), such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c, as pertinent. In respect of sections 91c, 144b, and 144c, authorizations by the President to cooperate shall be subject to the requirements of section 123d of the Act and shall also be subjected to appropriate determinations made pursuant to section 2 of this order.

Sec. 2. (a) The Secretary of Defense and the Secretary of Energy¹ are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided*, That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.²

(3) The authority vested in the President by section 144c of the Act to determine that the proposed cooperation and the

¹The "Secretary of Energy" was inserted in lieu of "Atomic Energy Commission" by sec. 9 of Executive Order 12608 (Sept. 9, 1987; 52 F.R. 34617).

²This provision was added by Executive Order 10956 (Aug. 12, 1961; 26 F.R. 7315).

communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Secretary of Energy¹ are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

Sec. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act of approving programs proposed under that section.

Sec. 4. (a) The functions of negotiating and entering into international agreements under the Act shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

5. Arms Control and Nonproliferation Provisions in National Defense Authorization Acts

a. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

Partial text of Public Law 106-398 [H.R. 4205, in which H.R. 5408 is enacted by reference], 114 Stat. 1654, approved October 30, 2000

A BILL To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

(b) * * *

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

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SUBTITLE A—MATTERS RELATED TO ARMS CONTROL

SEC. 1201. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) **LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001.**—The total amount of the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000.

(b) **EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.**—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking “2000” and inserting “2001”.

SEC. 1202. SUPPORT OF CONSULTATIONS ON ARAB AND ISRAELI ARMS CONTROL AND REGIONAL SECURITY ISSUES.

Of the amount authorized to be appropriated by section 301(5), up to \$1,000,000 is available for the support of programs to promote formal and informal region-wide consultations among Arab, Israeli, and United States officials and experts on arms control and security issues concerning the Middle East region.

SEC. 1203. FURNISHING OF NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.

(a) IN GENERAL.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2555. Nuclear test monitoring equipment: furnishing to foreign governments

“(a) AUTHORITY TO CONVEY OR PROVIDE NUCLEAR TEST MONITORING EQUIPMENT.—Subject to subsection (b), the Secretary of Defense may—

“(1) convey or otherwise provide to a foreign government (A) equipment for the monitoring of nuclear test explosions, and (B) associated equipment; and

“(2) as part of any such conveyance or provision of equipment, install such equipment on foreign territory or in international waters.

“(b) AGREEMENT REQUIRED.—Nuclear test explosion monitoring equipment may be conveyed or otherwise provided under subsection (a) only pursuant to the terms of an agreement between the United States and the foreign government receiving the equipment in which the recipient foreign government agrees—

“(1) to provide the United States with timely access to the data produced, collected, or generated by the equipment;

“(2) to permit the Secretary of Defense to take such measures as the Secretary considers necessary to inspect, test, maintain, repair, or replace that equipment, including access for purposes of such measures; and

“(3) to return such equipment to the United States (or allow the United States to recover such equipment) if either party determines that the agreement no longer serves its interests.

“(c) REPORT.—Promptly after entering into any agreement under subsection (b), the Secretary of Defense shall submit to Congress a report on the agreement. The report shall identify the country with which the agreement was made, the anticipated costs to the United States to be incurred under the agreement, and the national interest of the United States that is furthered by the agreement.

“(d) LIMITATION ON DELEGATION.—The Secretary of Defense may delegate the authority of the Secretary to carry out this section only to the Secretary of the Air Force. Such a delegation may be redelegated.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item: * * *

SEC. 1204. ADDITIONAL MATTERS FOR ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.

Section 1402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 798) is amended by adding at the end the following new paragraph:

“(4) The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors

General that have been set forth in a previous annual report under this section pursuant to paragraph (3).”

* * * * *

b. National Defense Authorization Act for Fiscal Year 2000

Partial text of Public Law 106-65 [S. 1059], 113 Stat. 512, approved October 5, 1999; amended by Public Law 106-398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 5408, enacted by referenc in H.R. 4205], 114 Stat. 1654, approved October 30, 2000

A BILL To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2000”.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XIV—PROLIFERATION AND EXPORT CONTROLS

* * * * *

SEC. 1401. ADHERENCE OF PEOPLE’S REPUBLIC OF CHINA TO MISSILE TECHNOLOGY CONTROL REGIME.

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

(1) the President should take all actions appropriate to obtain a bilateral agreement with the People’s Republic of China to adhere to the Missile Technology Control Regime (MTCR) and the MTCR Annex; and

(2) the People’s Republic of China should not be permitted to join the Missile Technology Control Regime as a member without having—

(A) agreed to the Missile Technology Control Regime and the specific provisions of the MTCR Annex;

(B) demonstrated a sustained and verified record of performance with respect to the nonproliferation of missiles and missile technology; and

(C) adopted an effective export control system for implementing guidelines under the Missile Technology Control Regime and the MTCR Annex.

(b) REPORT REQUIRED.—Not later than January 31, 2000, the President shall transmit to Congress a report explaining—

(1) the policy and commitments that the People’s Republic of China has stated on its adherence to the Missile Technology Control Regime and the MTCR Annex;

(2) the degree to which the People's Republic of China is complying with its stated policy and commitments on adhering to the Missile Technology Control Regime and the MTCR Annex; and

(3) actions taken by the United States to encourage the People's Republic of China to adhere to the Missile Technology Control Regime and the MTCR Annex.

(c) DEFINITIONS.—In this section:

(1) MISSILE TECHNOLOGY CONTROL REGIME.—The term “Missile Technology Control Regime” means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(2) MTCR ANNEX.—The term “MTCR Annex” means the Guidelines and Equipment and Technology Annex of the Missile Technology Control Regime, and any amendments thereto.

SEC. 1402. ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.

(a) ANNUAL REPORT.—Not later than March 30 of each year beginning in the year 2000 and ending in the year 2007, the President shall transmit to Congress a report on transfers to countries and entities of concern during the preceding calendar year of the most significant categories of United States technologies and technical information with potential military applications.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include, at a minimum, the following:

(1) An assessment by the Director of Central Intelligence of efforts by countries and entities of concern to acquire technologies and technical information referred to in subsection (a) during the preceding calendar year.

(2) An assessment by the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the Director of Central Intelligence, of the cumulative impact of licenses granted by the United States for exports of technologies and technical information referred to in subsection (a) to countries and entities of concern during the preceding 5-calendar year period on—

(A) the military capabilities of such countries and entities; and

(B) countermeasures that may be necessary to overcome the use of such technologies and technical information.

(3) An audit by the Inspectors General of the Departments of Defense, State, Commerce, and Energy, in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, of the policies and procedures of the United States Government with respect to the export of technologies and technical information referred to in subsection (a) to countries and entities of concern.

(4)¹ The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors General that have been set forth in a previous annual report under this section pursuant to paragraph (3).

(c) **ADDITIONAL REQUIREMENT FOR FIRST REPORT.**—The first annual report required by subsection (a) shall include an assessment by the Inspectors General of the Departments of State, Defense, Commerce, and the Treasury and the Inspector General of the Central Intelligence Agency of the adequacy of current export controls and counterintelligence measures to protect against the acquisition by countries and entities of concern of United States technology and technical information referred to in subsection (a).

(d) **SUPPORT OF OTHER AGENCIES.**—Upon the request of the officials responsible for preparing the assessments required by subsection (b), the heads of other departments and agencies shall make available to those officials all information necessary to carry out the requirements of this section.

(e) **CLASSIFIED AND UNCLASSIFIED REPORTS.**—Each report required by this section shall be submitted in classified form and unclassified form.

(f) **DEFINITION.**—As used in this section, the term “countries and entities of concern” means—

(1) any country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 or other applicable law, to have repeatedly provided support for acts of international terrorism;

(2) any country that—

(A) has detonated a nuclear explosive device (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)); and

(B) is not a member of the North Atlantic Treaty Organization; and

(3) any entity that—

(A) is engaged in international terrorism or activities in preparation thereof; or

(B) is directed or controlled by the government of a country described in paragraph (1) or (2).

SEC. 1403. RESOURCES FOR EXPORT LICENSE FUNCTIONS.

(a) **OFFICE OF DEFENSE TRADE CONTROLS.**—

(1) **IN GENERAL.**—The Secretary of State shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Office of Defense Trade Controls of the Department of State relating to the review and processing of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

(2) **AVAILABILITY OF EXISTING APPROPRIATIONS.**—The Secretary of State shall take the necessary steps to ensure that those funds made available under the heading “Administration of Foreign Affairs, Diplomatic and Consular Programs” in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as

¹ Sec. 1204 of Public Law 106-398 (114 Stat. 1654) added para. (4).

contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) are made available, upon the enactment of this Act, to the Office of Defense Trade Controls of the Department of State to carry out the purposes of the Office.

(b) **DEFENSE THREAT REDUCTION AGENCY.**—The Secretary of Defense shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Defense Threat Reduction Agency of the Department of Defense relating to the review of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

(c) **UPDATING OF STATE DEPARTMENT REPORT.**—Not later than March 1, 2000, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall transmit to Congress a report updating the information reported to Congress under section 1513(d)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note).

SEC. 1404. SECURITY IN CONNECTION WITH SATELLITE EXPORT LICENSING.

As a condition of the export license for any satellite to be launched in a country subject to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note), the Secretary of State shall require the following:

(1) That the technology transfer control plan required by section 1514(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note) be prepared by the Department of Defense and the licensee, and that the plan set forth enhanced security arrangements for the launch of the satellite, both before and during launch operations.

(2) That each person providing security for the launch of that satellite—

(A) report directly to the launch monitor with regard to issues relevant to the technology transfer control plan;

(B) have received appropriate training in the International Trafficking in Arms Regulations (hereafter in this title referred to as “ITAR”).

(C) have significant experience and expertise with satellite launches; and

(D) have been investigated in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level designated as “Secret”.

(3) That the number of such persons providing security for the launch of the satellite shall be sufficient to maintain 24-hour security of the satellite and related launch vehicle and other sensitive technology.

(4) That the licensee agree to reimburse the Department of Defense for all costs associated with the provision of security for the launch of the satellite.

SEC. 1405. REPORTING OF TECHNOLOGY TRANSMITTED TO PEOPLE'S REPUBLIC OF CHINA AND OF FOREIGN LAUNCH SECURITY VIOLATIONS.

(a) **MONITORING OF INFORMATION.**—The Secretary of Defense shall require that space launch monitors of the Department of Defense assigned to monitor launches in the People's Republic of China maintain records of all information authorized to be transmitted to the People's Republic of China with regard to each space launch that the monitors are responsible for monitoring, including copies of any documents authorized for such transmission, and reports on launch-related activities.

(b) **TRANSMISSION TO OTHER AGENCIES.**—The Secretary of Defense shall ensure that records under subsection (a) are transmitted on a current basis to appropriate elements of the Department of Defense and to the Department of State, the Department of Commerce, and the Central Intelligence Agency.

(c) **RETENTION OF RECORDS.**—Records described in subsection (a) shall be retained for at least the period of the statute of limitations for violations of the Arms Export Control Act.

(d) **GUIDELINES.**—The Secretary of Defense shall prescribe guidelines providing space launch monitors of the Department of Defense with the responsibility and the ability to report serious security violations, problems, or other issues at an overseas launch site directly to the headquarters office of the responsible Department of Defense component.

SEC. 1406. REPORT ON NATIONAL SECURITY IMPLICATIONS OF EXPORTING HIGH-PERFORMANCE COMPUTERS TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) **REVIEW.**—The President, in consultation with the Secretary of Defense and the Secretary of Energy, shall conduct a comprehensive review of the national security implications of exporting high-performance computers to the People's Republic of China. To the extent that such testing has not already been conducted by the Government, the President, as part of the review, shall conduct empirical testing of the extent to which national security-related operations can be performed using clustered, massively-parallel processing or other combinations of computers.

(b) **REPORT.**—The President shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the review conducted under subsection (a). The report shall be submitted not later than 6 months after the date of the enactment of this Act in classified and unclassified form and shall be updated not later than February 1 of each of the years 2001 through 2004.

SEC. 1407. END-USE VERIFICATION FOR USE BY PEOPLE'S REPUBLIC OF CHINA OF HIGH-PERFORMANCE COMPUTERS.

(a) **REVISED HPC VERIFICATION SYSTEM.**—The President shall seek to enter into an agreement with the People's Republic of China to revise the existing verification system with the People's Republic of China with respect to end-use verification for high-performance computers exported or to be exported to the People's Republic of China so as to provide for an open and transparent system providing for effective end-use verification for such computers.

The President shall transmit a copy of any such agreement to Congress.

(b) **DEFINITION.**—As used in this section and section 1406, the term “high-performance computer” means a computer which, by virtue of its composite theoretical performance level, would be subject to section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note).

(c) **ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE LEVELS FOR POST-SHIPMENT VERIFICATION.**—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) is amended by adding at the end the following new subsection:

“(e) **ADJUSTMENT OF PERFORMANCE LEVELS.**—Whenever a new composite theoretical performance level is established under section 1211(d), that level shall apply for purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).”.

SEC. 1408. ENHANCED MULTILATERAL EXPORT CONTROLS.

(a) **NEW INTERNATIONAL CONTROLS.**—The President shall seek to establish new enhanced international controls on technology transfers that threaten international peace and United States national security.

(b) **IMPROVED SHARING OF INFORMATION.**—The President shall take appropriate actions to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology covered by the Wassenaar Arrangement and enforce technology controls and re-export requirements for such technology.

(c) **DEFINITION.**—As used in this section, the term “Wassenaar Arrangement” means the multilateral export control regime covering conventional armaments and sensitive dual-use goods and technologies that was agreed to by 33 co-founding countries in July 1996 and began operation in September 1996.

SEC. 1409. ENHANCEMENT OF ACTIVITIES OF DEFENSE THREAT REDUCTION AGENCY.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to—

(1) authorize the personnel of the Defense Threat Reduction Agency (DTRA) who monitor satellite launch campaigns overseas to suspend such campaigns at any time if the suspension is required for purposes of the national security of the United States;

(2) ensure that persons assigned as space launch campaign monitors are provided sufficient training and have adequate experience in the regulations prescribed by the Secretary of State known as the ITAR and have significant experience and expertise with satellite technology, launch vehicle technology, and launch operations technology;

(3) ensure that adequate numbers of such monitors are assigned to space launch campaigns so that 24-hour, 7-day per week coverage is provided;

(4) take steps to ensure, to the maximum extent possible, the continuity of service by monitors for the entire space launch

campaign period (from satellite marketing to launch and, if necessary, completion of a launch failure analysis);

(5) adopt measures designed to make service as a space launch campaign monitor an attractive career opportunity;

(6) allocate funds and other resources to the Agency at levels sufficient to prevent any shortfalls in the number of such personnel;

(7) establish mechanisms in accordance with the provisions of section 1514(a)(2)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2175; 22 U.S.C. 2778 note) that provide for—

(A) the payment to the Department of Defense by the person or entity receiving the launch monitoring services concerned, before the beginning of a fiscal year, of an amount equal to the amount estimated to be required by the Department to monitor the launch campaigns during that fiscal year;

(B) the reimbursement of the Department of Defense, at the end of each fiscal year, for amounts expended by the Department in monitoring the launch campaigns in excess of the amount provided under subparagraph (A); and

(C) the reimbursement of the person or entity receiving the launch monitoring services if the amount provided under subparagraph (A) exceeds the amount actually expended by the Department of Defense in monitoring the launch campaigns;

(8) review and improve guidelines on the scope of permissible discussions with foreign persons regarding technology and technical information, including the technology and technical information that should not be included in such discussions;

(9) provide, in conjunction with other Federal agencies, on at least an annual basis, briefings to the officers and employees of United States commercial satellite entities on United States export license standards, guidelines, and restrictions, and encourage such officers and employees to participate in such briefings;

(10) establish a system for—

(A) the preparation and filing by personnel of the Agency who monitor satellite launch campaigns overseas of detailed reports of all relevant activities observed by such personnel in the course of monitoring such campaigns;

(B) the systematic archiving of reports filed under subparagraph (A); and

(C) the preservation of such reports in accordance with applicable laws; and

(11) establish a counterintelligence program within the Agency as part of its satellite launch monitoring program.

(b) ANNUAL REPORT ON IMPLEMENTATION OF SATELLITE TECHNOLOGY SAFEGUARDS.—(1) The Secretary of Defense and the Secretary of State shall each submit to Congress each year, as part of the annual report for that year under section 1514(a)(8) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, the following:

(A) A summary of the satellite launch campaigns and related activities monitored by the Defense Threat Reduction Agency during the preceding fiscal year.

(B) A description of any license infractions or violations that may have occurred during such campaigns and activities.

(C) A description of the personnel, funds, and other resources dedicated to the satellite launch monitoring program of the Agency during that fiscal year.

(D) An assessment of the record of United States satellite makers in cooperating with Agency monitors, and in complying with United States export control laws, during that fiscal year.

(2) Each report under paragraph (1) shall be submitted in classified form and unclassified form.

SEC. 1410. TIMELY NOTIFICATION OF LICENSING DECISIONS BY THE DEPARTMENT OF STATE.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prescribe regulations to provide timely notice to the manufacturer of a commercial satellite of United States origin of the final determination of the decision on the application for a license involving the overseas launch of such satellite.

SEC. 1411. ENHANCED INTELLIGENCE CONSULTATION ON SATELLITE LICENSE APPLICATIONS.

(a) CONSULTATION DURING REVIEW OF APPLICATIONS.—The Secretary of State and Secretary of Defense, as appropriate, shall consult with the Director of Central Intelligence during the review of any application for a license involving the overseas launch of a commercial satellite of United States origin. The purpose of the consultation is to assure that the launch of the satellite, if the license is approved, will meet the requirements necessary to protect the national security interests of the United States.

(b) ADVISORY GROUP.—(1) The Director of Central Intelligence shall establish within the intelligence community an advisory group to provide information and analysis to Congress, and to appropriate departments and agencies of the Federal Government, on the national security implications of granting licenses involving the overseas launch of commercial satellites of United States origin.

(2) The advisory group shall include technically-qualified representatives of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the National Air Intelligence Center, and the Department of State Bureau of Intelligence and Research and representatives of other elements of the intelligence community with appropriate expertise.

(3) In addition to the duties under paragraph (1), the advisory group shall—

(A) review, on a continuing basis, information relating to transfers of satellite, launch vehicle, or other technology or knowledge with respect to the course of the overseas launch of commercial satellites of United States origin; and

(B) analyze the potential impact of such transfers on the space and military systems, programs, or activities of foreign countries.

(4) The Director of the Nonproliferation Center of the Central Intelligence Agency shall serve as chairman of the advisory group.

(5)(A) The advisory group shall, upon request (but not less often than annually), submit reports on the matters referred to in paragraphs (1) and (3) to the appropriate committees of Congress and to appropriate departments and agencies of the Federal Government.

(B) The first annual report under subparagraph (A) shall be submitted not later than one year after the date of the enactment of this Act.

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

SEC. 1412. INVESTIGATIONS OF VIOLATIONS OF EXPORT CONTROLS BY UNITED STATES SATELLITE MANUFACTURERS.

(a) NOTICE TO CONGRESS OF INVESTIGATIONS.—The President shall promptly notify the appropriate committees of Congress whenever an investigation is undertaken by the Department of Justice of—

(1) an alleged violation of United States export control laws in connection with a commercial satellite of United States origin; or

(2) an alleged violation of United States export control laws in connection with an item controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778) that is likely to cause significant harm or damage to the national security interests of the United States.

(b) NOTICE TO CONGRESS OF CERTAIN EXPORT WAIVERS.—The President shall promptly notify the appropriate committees of Congress whenever an export waiver pursuant to section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note) is granted on behalf of any United States person that is the subject of an investigation described in subsection (a). The notice shall include a justification for the waiver.

(c) EXCEPTION.—The requirements in subsections (a) and (b) shall not apply if the President determines that notification of the appropriate committees of Congress under such subsections would jeopardize an on-going criminal investigation. If the President makes such a determination, the President shall provide written notification of such determination to the Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate. The notification shall include a justification for the determination.

(d) IDENTIFICATION OF PERSONS SUBJECT TO INVESTIGATION.—The Secretary of State and the Attorney General shall develop appropriate mechanisms to identify, for the purposes of processing export licenses for commercial satellites, persons who are the subject of an investigation described in subsection (a).

(e) PROTECTION OF CLASSIFIED AND OTHER SENSITIVE INFORMATION.—The appropriate committees of Congress shall ensure that appropriate procedures are in place to protect from unauthorized disclosure classified information, information relating to intel-

ligence sources and methods, and sensitive law enforcement information that is furnished to those committees pursuant to this section.

(f) **STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 413).

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

(1) The term “appropriate committees of Congress” means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(B) The Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term “United States person” means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

TITLE XV—ARMS CONTROL AND COUNTERPROLIFERATION MATTERS

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SEC. 1501. REVISION TO LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) **REVISED LIMITATION.**—Subsections (a) and (b) of section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1948) are amended to read as follows: * * *

(b) **CONFORMING AMENDMENTS.**—Such section is further amended—

(1) in subsection (c)(2), by striking “during the strategic delivery systems retirement limitation period” and inserting “during the fiscal year during which the START II Treaty enters into force”; and

(2) by striking subsection (g).

SEC. 1502. SENSE OF CONGRESS ON STRATEGIC ARMS REDUCTIONS.

It is the sense of Congress that, in negotiating a START III Treaty with the Russian Federation, or any other arms control treaty with the Russian Federation that would require reductions in United States strategic nuclear forces, that—

(1) the strategic nuclear forces and nuclear modernization programs of the People’s Republic of China and every other nation possessing nuclear weapons should be taken into full consideration in the negotiation of such treaty; and

(2) the reductions in United States strategic nuclear forces under such a treaty should not be to such an extent as to impede the capability of the United States to respond militarily to any militarily significant increase in the threat to United States security or strategic stability posed by the People's Republic of China and any other nation.

SEC. 1503. REPORT ON STRATEGIC STABILITY UNDER START III.

(a) **REPORT.**—Not later than September 1, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report, to be prepared in consultation with the Director of Central Intelligence, on the stability of the future strategic nuclear posture of the United States for deterring the Russian Federation and other potential nuclear adversaries.

(b) **MATTERS TO BE INCLUDED.**—The Secretary shall, at a minimum, include in the report the following:

(1) A discussion of the policy defining the deterrence and military-political objectives of the United States against potential nuclear adversaries.

(2) A discussion of the military requirements for United States nuclear forces, the force structure and capabilities necessary to meet those requirements, and how they relate to the achievement of the objectives identified under paragraph (1).

(3) A projection of the strategic nuclear force posture of the United States and the Russian Federation that is anticipated under a further Strategic Arms Reduction Treaty (referred to as "START III"), and an explanation of whether and how United States nuclear forces envisioned under that posture would be capable of meeting the military sufficiency requirements identified under paragraph (2).

(4) The Secretary's assessment of Russia's nuclear force posture under START III compared to its present force, including its size, vulnerability, and capability for launch on tactical warning, and an assessment of whether strategic stability would be enhanced or diminished under START III, including any stabilizing and destabilizing factors and possible incentives or disincentives for Russia to launch a first strike, or otherwise use nuclear weapons, against the United States in a possible future crisis.

(5) The Secretary's assessment of the nuclear weapon capabilities of China and other potential nuclear weapon "rogue" states in the foreseeable future, and an assessment of the effect of these capabilities on strategic stability, including their ability and inclination to use nuclear weapons against the United States in a possible future crisis.

(6) The Secretary's assessment of whether asymmetries between the United States and Russia, including doctrine, non-strategic nuclear weapons, and active and passive defenses, are likely to erode strategic stability in the foreseeable future.

(7) Any other matters the Secretary believes are important to such a consideration of strategic stability under future nuclear postures.

(c) CLASSIFICATION.—The report shall be submitted in classified form and, to the extent possible, in unclassified form.

SEC. 1504. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.

(a) EXTENSION OF COMMITTEE.—Subsection (f) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking “September 30, 2000” and inserting “September 30, 2004”.

(b) EXECUTIVE SECRETARY OF THE COMMITTEE.—Paragraph (5) of subsection (a) of that section is amended to read as follows:

“(5) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee, except that during any period during which that position is vacant the Assistant Secretary of Defense for Strategy and Threat Reduction shall serve as the executive secretary.”.

(c) EARLIER DEADLINE FOR ANNUAL REPORT ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503(a) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended by striking “May 1 of each year” and inserting “February 1 of each year”.

SEC. 1505. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2000.—The total amount of the assistance for fiscal year 2000 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking “1999” and inserting “2000”.

(c) REFERENCES TO UNITED NATIONS SPECIAL COMMISSION ON IRAQ AND TO FISCAL LIMITATIONS.—(1) Subsection (b)(2) of such section is amended * * *

* * * * *

c. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

Partial text of Public Law 105-261 [H.R. 3616], 112 Stat. 1920, approved October 17, 1998; amended by Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000;S. 1059], 113 Stat. 512, approved October 5, 1999; and by Public Law 106-113 [H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “Strom Thurmond National Defense Authorization Act for Fiscal Year 1999”.

(b) * * *

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XV—ARMS CONTROL MATTERS

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Subtitle A—Arms Control Matters

SEC. 1501. ONE-YEAR EXTENSION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1948) is amended—* * *

SEC. 1502.¹ TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS.

(a) **REPORTING REQUIREMENT.**—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms Control and Disarmament Agency becomes an element of the Department of State) shall transmit to the Committee on Armed Services² of the House of Representatives on a periodic basis reports containing classified summaries of arms control developments.

¹22 U.S.C. 2593a note.

²Sec. 1067(3) of Public Law 106-65 (113 Stat. 774) struck out “Committee on National Security” and inserted in lieu thereof “Committee on Armed Services”.

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance.

SEC. 1503. REPORT ON ADEQUACY OF EMERGENCY COMMUNICATIONS CAPABILITIES BETWEEN UNITED STATES AND RUSSIA.

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status and adequacy of current direct communications capabilities between the governments of the United States and Russia. The report shall identify each existing direct communications link between those governments and each such link that is designed to be used, or is available to be used, in an emergency situation. The Secretary shall describe in the report any shortcomings with the existing communications capabilities and shall include such proposals as the Secretary considers appropriate to improve those capabilities. In considering improvements to propose, the Secretary shall assess the feasibility and desirability of establishing a direct communications link between the commanders of appropriate United States unified and specified commands, including the United States Space Command and the United States Strategic Command, and their Russian counterparts.

SEC. 1504. RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

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

(1) The 7,000 to 12,000 or more nonstrategic (or “tactical”) nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today.

(2) As the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia’s vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing.

(3) While the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly 90 percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia’s tactical nuclear stockpile.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should call on Russia to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(c) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the nonstrategic nuclear weapons of Russia. The report shall include—

(1) estimates regarding the current numbers, types, yields, viability, and locations of those weapons;

(2) an assessment of the strategic implications of Russia's nonstrategic arsenal, including the potential use of those weapons in a strategic role or the use of their components in strategic nuclear systems and the potential of Russian superiority in tactical nuclear weapons to destabilize the overall nuclear balance as strategic nuclear weapons are sharply reduced under the START accords;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of the warheads of those weapons, including an analysis of Russian command and control as it concerns the use of tactical nuclear weapons;

(4) a summary of past, current, and planned efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear weapons and associated fissile material;

(5) a summary of how the United States would prevent, or plans to cope militarily with, scenarios in which a deterioration in relations with Moscow causes Russia to redeploy tactical nuclear weapons or in which Russia threatens to employ, or actually employs, tactical nuclear weapons in a local or regional conflict involving the United States or allies of the United States; and

(6) an assessment of the steps that could be taken by the United States to enhance military preparedness in order (A) to deter any potential attempt by Russia to possibly exploit its advantage in tactical nuclear weapons through coercive "nuclear diplomacy" or on the battlefield, or (B) to counter Russia if Russia should make such an attempt to exploit its advantage in tactical nuclear weapons.

(d) **IEWS.**—The Secretary of Defense shall include in the report under subsection (c) the views of the Director of Central Intelligence and of the commander of the United States Strategic Command.

Subtitle B—Satellite Export Controls

SEC. 1511.³ SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States business interests must not be placed above United States national security interests;

(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of observing and adhering to the Missile Technology Control Regime (MTCR);

(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United

³ 22 U.S.C. 2778 note.

States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

SEC. 1512.⁴ CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.

(a)⁵ CERTIFICATION.—The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that—

(1) such export is not detrimental to the United States space launch industry; and

(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

(b)⁵ EXCEPTION.—The certification requirement contained in subsection (a) shall not apply to the export of inertial reference units and components in manned civilian aircraft or supplied as spare or replacement parts for such aircraft.

SEC. 1513.⁶ SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

(a) CONTROL OF SATELLITES ON THE UNITED STATES MUNITIONS LIST.—Notwithstanding any other provision of law, all satellites and related items that are on the Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part 730 et seq.) on the date of the enactment of this Act shall be transferred to the United States Munitions List and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) DEFENSE TRADE CONTROLS REGISTRATION FEES.—Section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717) is amended—* * *

(c) EFFECTIVE DATE.—(1) Subsection (a) shall take effect on March 15, 1999, and shall not apply to any export license issued

⁴22 U.S.C. 2778 note. On May 10, 1999, the President certified to Congress "that the export to the People's Republic of China of satellite fuels and separation systems for the U.S.-origin Iridium commercial communications satellite program: (1) is not detrimental to the United States space launch industry; and (2) the material and equipment, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China." (*Congressional Record*, May 11, 1999, p. S5029).

⁵Sec. 146 of Public Law 105-277 (112 Stat. 2681-610) struck out "The" and inserted in lieu thereof "(a) CERTIFICATION.—The"; and added a new subsec. (b).

⁶22 U.S.C. 2778 note.

before such effective date or to any export license application made under the Export Administration Regulations before such effective date.

(2) The amendments made by subsection (b) shall be effective as of October 1, 1998.

(d) REPORT.—Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing—

(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

(2) an identification and explanation of any steps that should be taken to improve the license review process for exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act for the satellites and related items described in subsection (a).

SEC. 1514.⁷ NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

(a) ACTIONS BY THE PRESIDENT.—Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

(1) MANDATORY TECHNOLOGY CONTROL PLANS.—All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

(2) MANDATORY MONITORS AND REIMBURSEMENT.—

(A) MONITORING OF PROPOSED FOREIGN LAUNCH OF SATELLITES.—In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

⁷ 22 U.S.C. 2778 note.

(B) CONTENTS OF MONITORING.—The monitoring under subparagraph (A) shall cover, but not be limited to—

(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

(iv) all other aspects of the launch.

(3) MANDATORY LICENSES FOR CRASH-INVIGATIONS.—In the event of the failure of a launch from a foreign country of a satellite of United States origin—

(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation;

(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

(4) MANDATORY NOTIFICATION AND CERTIFICATION.—All technology transfer control plans for satellites or related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

(5) MANDATORY INTELLIGENCE COMMUNITY REVIEW.—The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

(6) MANDATORY SHARING OF APPROVED LICENSES AND AGREEMENTS.—The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the

Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

(7) MANDATORY NOTIFICATION TO CONGRESS ON LICENSES.—Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

(8) MANDATORY REPORTING ON MONITORING ACTIVITIES.—The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

(9) ESTABLISHING SAFEGUARDS PROGRAM.—The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

(b) EXCEPTION.—This section shall not apply to the export of a satellite or related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

(c) EFFECTIVE DATE.—The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act.

SEC. 1515.⁸ REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

(a) REQUIREMENT FOR REPORT.—Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101-246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

(1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.

(2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.

(3)(A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and

(B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.

(4) The reasons why the proposed satellite launch is in the national security interest of the United States.

(5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the

⁸ 22 U.S.C. 2778 note.

United States, on a State-by-State basis, as a direct result of the proposed export.

(6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.

(7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.

(8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.

(9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not directly related to the proposed export.

(10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

(11) The increase that will result from the proposed export in the overall market share of the United States for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia.

(12) The impact of the proposed export on the willingness of the People's Republic of China to modify its commercial and trade laws, practices, and regulations to make United States-made goods and services more accessible to that market.

(13) The impact of the proposed export on the willingness of the People's Republic of China to reduce formal and informal trade barriers and tariffs, duties, and other fees on United States-made goods and services entering that country.

(b) **MILITARILY SENSITIVE CHARACTERISTICS DEFINED.**—In this section, the term “militarily sensitive characteristics” includes antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, kick motors, and other such characteristics as are specified by the Secretary of Defense.

SEC. 1516.⁹ RELATED ITEMS DEFINED.

In this subtitle, the term “related items” means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

⁹ 22 U.S.C. 2778 note.

Subtitle C—Other Export Control Matters

SEC. 1521. AUTHORITY FOR EXPORT CONTROL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) FUNCTIONS OF THE UNDER SECRETARY FOR POLICY.—Section 134(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.”

(b) ESTABLISHMENT OF DEPUTY UNDER SECRETARY FOR TECHNOLOGY SECURITY POLICY.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 134a the following new section:

“§ 134b. Deputy Under Secretary of Defense for Technology Security Policy

“(a) There is in the Office of the Under Secretary of Defense for Policy a Deputy Under Secretary of Defense for Technology Security Policy.

“(b) The Deputy Under Secretary serves as the Director of the Defense Technology Security Administration (or any successor organization charged with similar responsibilities).

“(c) The principal duties of the Deputy Under Secretary are—

“(1) assisting the Under Secretary of Defense for Policy in supervising and directing the activities of the Department of Defense relating to export controls; and

“(2) assisting the Under Secretary of Defense for Policy in developing policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

“(d) The Deputy Under Secretary shall perform such additional duties and exercise such authority as the Secretary of Defense may prescribe.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 134a the following new item: * * *

(c)¹⁰ TIME FOR IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act.

(d)¹⁰ REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b). The report shall include the following:

¹⁰ 10 U.S.C. 134 note.

(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of those subsections.

SEC. 1522.¹¹ RELEASE OF EXPORT INFORMATION BY DEPARTMENT OF COMMERCE TO OTHER AGENCIES FOR PURPOSE OF NATIONAL SECURITY ASSESSMENT.

(a) **RELEASE OF EXPORT INFORMATION.**—The Secretary of Commerce shall, upon the written request of an official specified in subsection (c), transmit to that official any information relating to exports that is held by the Department of Commerce and is requested by that official for the purpose of assessing national security risks. The Secretary shall transmit such information within 10 business days after receiving such a request.

(b) **NATURE OF INFORMATION.**—The information referred to in subsection (a) includes information concerning—

(1) export licenses issued by the Department of Commerce;

(2) exports that were carried out under an export license issued by the Department of Commerce; and

(3) exports from the United States that were carried out without an export license.

(c) **REQUESTING OFFICIALS.**—The officials referred to in subsection (a) are the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence. Each of those officials may delegate to any other official within their respective departments and agency the authority to request information under subsection (a).

SEC. 1523.¹² NUCLEAR EXPORT REPORTING REQUIREMENT.

(a) ¹³ **NOTIFICATION OF THE COMMITTEE ON FOREIGN RELATIONS OF THE SENATE AND THE COMMITTEE ON INTERNATIONAL RELATIONS OF THE HOUSE OF REPRESENTATIVES.**—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives¹³ upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

(b) **APPLICABILITY.**—The requirements of this section shall apply only to an export or reexport to a country that—

(1) the President has determined is a country that has detonated a nuclear explosive device; and

¹¹ 50 U.S.C. app. 2404 note.

¹² 42 U.S.C. 2155 note.

¹³ Sec. 1135(1) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536)) struck out "Congress" and inserted in lieu thereof "the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives".

(2) is not a member of the North Atlantic Treaty Organization.

(c)¹⁴ **CONTENT OF NOTIFICATION.**—The notification required pursuant to this section shall include—

(1) a detailed description of the articles or services to be exported or reexported, including a brief description of the capabilities of any article to be exported or reexported;

(2) an estimate of the number of officers and employees of the United States Government and of United States Government civilian contract personnel expected to be required in such country to carry out the proposed export or reexport;

(3) the name of each licensee expected to provide the article or service proposed to be sold and a description from the licensee of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);

(4) the projected delivery dates of the articles or services to be exported or reexported; and

(5) the extent to which the recipient country in the previous two years has engaged in any of the actions specified in subparagraph (A), (B), or (C) of section 129(2) of the Atomic Energy Act of 1954.

SEC. 1524.¹⁵ EXECUTION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.

Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1932) is amended by adding at the end the following new subsection:

“(g) **DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.**—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an official at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).”

Subtitle D—Counterproliferation Matters

SEC. 1531. ONE-YEAR EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

(a) **AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.**—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed \$15,000,000.

¹⁴Sec. 1135(2) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536)) added subsec. (c).

¹⁵50 U.S.C. app. 2404 note.

(b) **EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.**—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking out “1998” and inserting in lieu thereof “1999”.

SEC. 1532. SENSE OF CONGRESS ON NUCLEAR TESTS IN SOUTH ASIA.

The Congress—

(1) strongly condemns the decisions by the Governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) calls for the Governments of India and Pakistan to commit not to conduct any additional nuclear tests;

(3) urges the Governments of India and Pakistan to take immediate steps to reduce tensions between the two countries;

(4) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(5) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(6) calls upon the President, leaders of all nations, and the United Nations to encourage a diplomatic, negotiated solution between the Governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(7) encourages United States diplomatic leadership in assisting the Governments of India and Pakistan to seek a negotiated resolution of their 50-year conflict over the disputed territory in Kashmir;

(8) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(9) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from India and Pakistan which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

SEC. 1533. REPORT ON REQUIREMENTS FOR RESPONSE TO INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) **STUDY.**—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) **REPORT.**—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House

of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any United States missile defense system currently deployed or under development that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

* * * * *

d. National Defense Authorization Act for Fiscal Year 1998

Partial text of Public Law 105-85 [H.R. 1119], 111 Stat. 1629, approved November 18, 1997; amended by Public Law 105-261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and by Public Law 106-398 [National Defense Authorization Act for Fiscal Year 2001; H.R. 5408, enacted by reference in H.R. 4205], 114 Stat. 1654, approved October 30, 2000

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1998”.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE XIII—ARMS CONTROL AND RELATED MATTERS

* * * * *

SEC. 1301. PRESIDENTIAL REPORT CONCERNING DETARGETING OF RUSSIAN STRATEGIC MISSILES.

(a) **REQUIRED REPORT.**—Not later than January 1, 1998, the President shall submit to Congress a report concerning detargeting of Russian strategic missiles. The report shall address each of the following:

(1) Whether a Russian ICBM that was formerly, but is no longer, targeted at a site in the United States would be automatically retargeted at a site in the United States in the event of the accidental launch of the missile.

(2) Whether missile detargeting would prevent or significantly reduce the possibility of an unauthorized missile launch carried out by the Russian General Staff and prevent or significantly reduce the consequences to the United States of such a launch.

(3) Whether missile detargeting would pose a significant obstacle to an unauthorized launch carried out by an operational level below the Russian General Staff if missile operators at

such an operational level acquired missile launch codes or had the technical expertise to override missile launch codes.

(4) The plausibility of an accidental launch of a Russian ICBM, compared to the possibility of a deliberate missile launch, authorized or unauthorized, resulting from Russian miscalculation, overreaction, or aggression.

(5) The national security benefits derived from detargeting United States and Russian ICBMs.

(6) The relative consequences to the United States of an unauthorized or accidental launch of a Russian ICBM that has been detargeted and one that has not been detargeted.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) The term “Russian ICBM” means an intercontinental ballistic missile of the Russian Federation.

(2) The term “accidental launch” means a missile launch resulting from mechanical failure.

SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a)¹ FUNDING LIMITATION.—(1) Except as provided in paragraph (2), funds available to the Department of Defense may not be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems below the specified levels:

(A) 76 B-52H bomber aircraft.

(B) 18 Trident ballistic missile submarines.

(C) 500 Minuteman III intercontinental ballistic missiles.

(D) 50 Peacekeeper intercontinental ballistic missiles.

(2) The limitation in paragraph (1)(B) shall be modified in accordance with paragraph (3) upon a certification by the President to Congress of the following:

(A) That the effectiveness of the United States strategic deterrent will not be decreased by reductions in strategic nuclear delivery systems.

(B) That the requirements of the Single Integrated Operational Plan can be met with a reduced number of strategic nuclear delivery systems.

(C) That reducing the number of strategic nuclear delivery systems will not, in the judgment of the President, provide a disincentive for Russia to ratify the START II treaty or serve to undermine future arms control negotiations.

(D) That the United States will retain the ability to increase the delivery capacity of its strategic nuclear delivery systems

¹Sec. 1501 of Public Law 106-65 (113 Stat. 806) amended and restated subsecs. (a) and (b). The subsecs., as previously amended by sec. 1501(1) of Public Law 105-261, formerly read as follows:

“(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during the strategic delivery systems retirement limitation period for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems below the specified levels:

“(1) 71 B-52H bomber aircraft.

“(2) 18 Trident ballistic missile submarines.

“(3) 500 Minuteman III intercontinental ballistic missiles.

“(4) 50 Peacekeeper intercontinental ballistic missiles.

“(b) WAIVER AUTHORITY.—If the START II Treaty enters into force during the strategic delivery systems retirement limitation period, the Secretary of Defense may waive the application of the limitation under subsection (a) to the extent that the Secretary determines necessary in order to implement the treaty.”

should threats arise that require more substantial United States strategic forces.

(3) If the President submits the certification described in paragraph (2), then the applicable number in effect under paragraph (1)(B)—

(A) shall be 16 during the period beginning on the date on which such certification is transmitted to Congress and ending on the date specified in subparagraph (B); and

(B) shall be 14 effective as of the date that is 240 days after the date on which such certification is transmitted.

(b)¹ WAIVER AUTHORITY.—If the START II Treaty enters into force, the President may waive the application of the limitation in effect under subsection (a) to a strategic nuclear delivery system² to the extent that the President determines such a waiver to be necessary in order to implement the treaty.

(c) FUNDING LIMITATION ON EARLY DEACTIVATION.—(1) If the limitation under subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended³ to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (a) until 30 days after the date on which the President submits to Congress a report concerning such actions.

(2) For purposes of this subsection and subsection (d), a substantial early deactivation is an action during the fiscal year during which the START II Treaty enters into force⁴ to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (a) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement and, based upon that assessment, the determination of the President specifically as to whether the procedures for monitoring and verification of compliance by Russia with the terms of the agreement are adequate or inadequate.

²Sec. 1043 of Public Law 106-398 (114 Stat. 1654) struck out “the application of the limitation in effect under paragraph (1)(B) or (3) of subsection (a), as the case may be,” and inserted in lieu thereof “the application of the limitation in effect under subsection (a) to a strategic nuclear delivery system”.

³Sec. 1501(2) of Public Law 105-261 (112 Stat. 2171) struck out “during fiscal year 1998”.

⁴Sec. 1501(b)(1) of Public Law 106-65 (113 Stat. 806) struck out “during the strategic delivery systems retirement limitation period” and inserted in lieu thereof “during the fiscal year during which the START II Treaty enters into force”. Previously, sec. 1501(1) of Public Law 105-261 (112 Stat. 2171) struck out “during the fiscal year 1998” and inserted in lieu thereof “during the strategic delivery systems retirement limitation period”.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner and whether the agreement will require early deactivations of strategic forces by the United States to be carried out substantially more rapidly than deactivations of strategic forces by Russia.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion, including a determination by the President specifically as to whether the proposed early deactivations will adversely affect strategic stability.

(d) FURTHER LIMITATION ON STRATEGIC FORCE REDUCTIONS.—(1) Amounts available to the Department of Defense⁵ to implement an agreement that results in a substantial early deactivation of strategic forces may not be obligated for that purpose if in the report under subsection (c)(3) the President determines any of the following:

(A) That procedures for monitoring and verification of compliance by Russia with the terms of the agreement are inadequate.

(B) That the agreement will require early deactivations of strategic forces by the United States to be carried out substantially more rapidly than deactivations of strategic forces by Russia.

(C) That the proposed early deactivations will adversely affect strategic stability.

(2) The limitation in paragraph (1), if effective by reason of a determination by the President described in paragraph (1)(B), shall cease to apply 30 days after the date on which the President notifies Congress that the early deactivations under the agreement are in the national interest of the United States.

(e) CONTINGENCY PLAN FOR SUSTAINMENT OF SYSTEMS.—(1) Not later than⁶ February 15, 1998, the Secretary of Defense shall submit to Congress a plan for the sustainment beyond October 1, 1999, of United States strategic nuclear delivery systems and alternative Strategic Arms Reduction Treaty force structures in the event that a strategic arms reduction agreement subsequent to the Strategic Arms Reduction Treaty does not enter into force before 2004.

(2) The plan shall include a discussion of the following matters:

(A) The actions that are necessary to sustain the United States strategic nuclear delivery systems, distinguishing between the actions that are planned for and funded in the future-years defense program and the actions that are not planned for and funded in the future-years defense program.

(B) The funding necessary to implement the plan, indicating the extent to which the necessary funding is provided for in the future-years defense program and the extent to which the necessary funding is not provided for in the future-years defense program.

⁵Sec. 1501(3)(A) and (B) of Public Law 105-261 (112 Stat. 2171) struck out “for fiscal year 1998” and “during fiscal year 1998”, respectively.

⁶As enrolled.

(f) **START TREATIES DEFINED.**—In this section:

(1) The term “Strategic Arms Reduction Treaty” means the Treaty Between the United States of America and the United Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START), signed at Moscow on July 31, 1991, including related annexes on agreed statements and definitions, protocols, and memorandum of understanding.

(2) The term “START II Treaty” means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the “START II Treaty” (contained in Treaty Document 103-1):

(A) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Elimination and Conversion Protocol”).

(B) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Exhibitions and Inspections Protocol”).

(C) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Memorandum on Attribution”).

(g) ⁷ * * * [Repealed—1999]

SEC. 1303.⁸ ASSISTANCE FOR FACILITIES SUBJECT TO INSPECTION UNDER THE CHEMICAL WEAPONS CONVENTION.

(a) **ASSISTANCE AUTHORIZED.**—Upon the request of the owner or operator of a facility that is subject to a routine inspection or a challenge inspection under the Chemical Weapons Convention, the Secretary of Defense may provide technical assistance to that owner or operator related to compliance of that facility with the Convention. Any such assistance shall be provided through the On-Site Inspection Agency of the Department of Defense.

(b) **REIMBURSEMENT REQUIREMENT.**—The Secretary may provide assistance under subsection (a) only to the extent that the Secretary determines that the Department of Defense will be reimbursed for costs incurred in providing the assistance. The United States National Authority may provide such reimbursement from

⁷ Sec. 1501(4) of Public Law 105-261 (112 Stat. 2171) added subsec. (g). Sec. 1501(b)(1) of Public Law 106-65 (113 Stat. 806) struck out the subsec. the following year. It had read as follows: “(g) **STRATEGIC DELIVERY SYSTEMS RETIREMENT LIMITATION PERIOD.**—For purposes of this section, the term ‘strategic delivery systems retirement limitation period’ means the period of fiscal years 1998 and 1999.”

⁸ 50 U.S.C. 1525.

amounts available to it. Any such reimbursement shall be credited to amounts available for the On-Site Inspection Agency.

(c) DEFINITIONS.—In this section:

(1) The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

(2) The term “facility that is subject to a routine inspection” means a declared facility, as defined in paragraph 15 of part X of the Annex on Implementation and Verification of the Convention.

(3) The term “challenge inspection” means an inspection conducted under Article IX of the Convention.

(4) The term “United States National Authority” means the United States National Authority established or designated pursuant to Article VII, paragraph 4, of the Convention.

SEC. 1304. TRANSFERS OF AUTHORIZATIONS FOR HIGH-PRIORITY COUNTERPROLIFERATION PROGRAMS.

(a) AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1998 to any counterproliferation program, project, or activity described in subsection (b).

(2) A transfer of authorizations may be made under this section only upon determination by the Secretary of Defense that such action is necessary in the national interest.

(3) Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(b) PROGRAMS TO WHICH TRANSFERS MAY BE MADE.—The authority under subsection (a) applies to any counterproliferation program, project, or activity of the Department of Defense identified as an area for progress in the most recent annual report of the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

(c) LIMITATION ON TOTAL AMOUNT.—The total amount of authorizations transferred under the authority of this section may not exceed \$50,000,000.

(d) OTHER LIMITATIONS AND REQUIREMENTS.—The provisions of subsection (b), (c), and (d) of section 1001 shall apply to a transfer under this section in the same manner as they apply to a transfer under subsection (a) of that section.

(e) CONSTRUCTION WITH GENERAL TRANSFER AUTHORITY.—The authority provided by this section is in addition to the transfer authority provided in section 1001.

SEC. 1305.⁹ ADVICE TO THE PRESIDENT AND CONGRESS REGARDING THE SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE.

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

⁹42 U.S.C. 7274p.

(1) Nuclear weapons are the most destructive weapons on earth. The United States and its allies continue to rely on nuclear weapons to deter potential adversaries from using weapons of mass destruction. The safety and reliability of the nuclear weapons stockpile are essential to ensure its credibility as a deterrent.

(2) On September 24, 1996, President Clinton signed the Comprehensive Test Ban Treaty.

(3) Effective as of September 30, 1996, the United States is prohibited by section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377; 42 U.S.C. 2121 note) from conducting underground nuclear tests “unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted”.

(4) Section 1436(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 42 U.S.C. 2121 note) requires the Secretary of Energy to “establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive test ban on nuclear explosive testing is negotiated and ratified.”

(5) Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 42 U.S.C. 2121 note) required the President to submit an annual report to Congress which sets forth “any concerns with respect to the safety, security, effectiveness, or reliability of existing United States nuclear weapons raised by the Stockpile Stewardship Program of the Department of Energy”.

(6) President Clinton declared in July 1993 that “to assure that our nuclear deterrent remains unquestioned under a test ban, we will explore other means of maintaining our confidence in the safety, reliability, and the performance of our weapons”. This decision was incorporated in a Presidential Directive.

(7) Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 42 U.S.C. 2121 note) also requires that the Secretary of Energy establish a “stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons”.

(8) The plan of the Department of Energy to maintain the safety and reliability of the United States nuclear weapons stockpile is known as the Stockpile Stewardship and Management Program. The ability of the United States to maintain and certify the safety, security, effectiveness, and reliability of the nuclear weapons stockpile without testing will require utilization of new and sophisticated computational capabilities and diagnostic technologies, methods, and procedures. Current diagnostic technologies and laboratory testing techniques are insufficient to certify the safety and reliability of the United States nuclear weapons stockpile into the future. Whereas in the past laboratory and diagnostic tools were used in conjunction with nuclear testing, in the future they will provide, under the Department of Energy’s stockpile stewardship plan, the

sole basis for assessing past test data and for making judgments on phenomena observed in connection with the aging of the stockpile.

(9) Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) requires that the directors of the nuclear weapons laboratories and the nuclear weapons production plants submit a report to the Assistant Secretary of Energy for Defense Programs if they identify a problem that has significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, that the Assistant Secretary must transmit that report, along with any comments, to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense, and that the Joint Nuclear Weapons Council advise Congress regarding its analysis of any such problems.

(10) On August 11, 1995, President Clinton directed “the establishment of a new annual reporting and certification requirement [to] ensure that our nuclear weapons remain safe and reliable under a comprehensive test ban”.

(11) On the same day, the President noted that the Secretary of Defense and the Secretary of Energy have the responsibility, after being “advised by the Nuclear Weapons Council, the Directors of DOE’s nuclear weapons laboratories, and the Commander of United States Strategic Command”, to provide the President with the information regarding the certification referred to in paragraph (10).

(12) The Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, is responsible for providing advice to the Secretary of Energy and the Secretary of Defense regarding nuclear weapons issues, including “considering safety, security, and control issues for existing weapons”. The Council plays a critical role in advising Congress in matters relating to nuclear weapons.

(13) It is essential that the President receive well-informed, objective, and honest opinions, including dissenting views, from his advisers and technical experts regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(b) POLICY.—

(1) IN GENERAL.—It is the policy of the United States—

(A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

(B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) NUCLEAR WEAPONS STOCKPILE.—It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the nuclear weapons laboratories and nuclear weapons production plants.

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

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign

leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(c) ADDITION OF PRESIDENT TO RECIPIENTS OF REPORTS BY HEADS OF LABORATORIES AND PLANTS.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) is amended—* * *

(d) TEN-DAY TIME LIMIT FOR TRANSMITTAL OF REPORT.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o) is amended * * *

(e) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE.—In addition to a director of a nuclear weapons laboratory or a nuclear weapons production plant (under section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o)), any member of the Joint Nuclear Weapons Council or the commander of the United States Strategic Command may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(f) EXPRESSION OF INDIVIDUAL VIEWS.—A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(g) DEFINITIONS.—In this section:

(1) The term “representative of the President” means the following:

(A) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(B) Any member of the National Security Council.

(C) Any member of the Joint Chiefs of Staff.

(D) Any official of the Office of Management and Budget.

(2) The term “nuclear weapons laboratory” means any of the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term “nuclear weapons production plant” means any of the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y-12 Plant, Oak Ridge, Tennessee.

SEC. 1306. RECONSTITUTION OF COMMISSION TO ASSESS THE BALLISTIC MISSILE THREAT TO THE UNITED STATES.

(a) INITIAL ORGANIZATION REQUIREMENTS.—Section 1321(g) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2712) is amended—* * *

(b) FUNDING.—Section 1328 of such Act (110 Stat. 2714) is amended by inserting “and fiscal year 1998” after “for fiscal year 1997”.

SEC. 1307. SENSE OF CONGRESS REGARDING THE RELATIONSHIP BETWEEN UNITED STATES OBLIGATIONS UNDER THE CHEMICAL WEAPONS CONVENTION AND ENVIRONMENTAL LAWS.

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

(1) The Chemical Weapons Convention requires the destruction of the United States stockpile of lethal chemical agents and munitions by April 29, 2007 (not later than 10 years after the Convention’s entry into force).

(2) The President has substantial authority under existing law to ensure that—

(A) the technologies necessary to destroy the stockpile are developed;

(B) the facilities necessary to destroy the stockpile are constructed; and

(C) Federal, State, and local environmental laws and regulations do not impair the ability of the United States to comply with its obligations under the Convention.

(3) The Comptroller General has concluded (in GAO Report NSIAD 97018 of February 1997) that—

(A) obtaining the necessary Federal and State permits that are required under Federal environmental laws and regulations for building and operating the chemical agents and munitions destruction facilities is among the most unpredictable factors in the chemical demilitarization program; and

(B) program cost and schedule are largely driven by the degree to which States and local communities are in agreement with proposed disposal methods and whether those methods meet environmental concerns.

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

(1) should use the authority of the President under existing law to ensure that the United States is able to construct and operate the facilities necessary to destroy the United States stockpile of lethal chemical agents and munitions within the time allowed by the Chemical Weapons Convention; and

(2) while carrying out the obligations of the United States under the Convention, should encourage negotiations between appropriate Federal officials and officials of the State and local governments concerned to attempt to meet their concerns regarding compliance with Federal and State environmental laws and regulations and other concerns about the actions being taken to carry out those obligations.

(c) **CHEMICAL WEAPONS CONVENTION DEFINED.**—For the purposes of this section, the terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

SEC. 1308. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484; 22 U.S.C. 5859a) is amended—* * *

SEC. 1309.¹⁰ ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.

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

(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called “Ottawa process”) designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed antitank mine systems which could be used to deter an armored assault against United States forces.

(7) The President also announced a change in United States policy whereby the United States—

(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

¹⁰ 10 U.S.C. 113 note.

(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

(D) would increase its current humanitarian demining activities around the world.

(8) The President's decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

(9) Under existing law (as provided in section 580 of Public Law 104-107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

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

(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report concerning antipersonnel landmines. Each such report shall include the Secretary's description of the following:

(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President's September 17, 1997, declaration on United States antipersonnel landmine policy.

(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines.

* * * * *

e. National Defense Authorization Act for Fiscal Year 1997

Partial text of Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; amended by Public Law 105-85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE XIII—ARMS CONTROL AND RELATED MATTERS

* * * * *

SUBTITLE A—ARMS CONTROL, COUNTERPROLIFERATION ACTIVITIES, AND RELATED MATTERS

SEC. 1301. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484; 22 U.S.C. 5859a) is amended—* * *

(b) * * *

SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1997 for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems:

- (1) B-52H bomber aircraft.
- (2) Trident ballistic missile submarines.
- (3) Minuteman III intercontinental ballistic missiles.
- (4) Peacekeeper intercontinental ballistic missiles.

(b) WAIVER AUTHORITY.—If the START II Treaty enters into force during fiscal year 1996 or fiscal year 1997, the Secretary of Defense may waive the application of the limitation under paragraphs (2), (3), and (4) of subsection (a) to Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles, and Peacekeeper intercontinental ballistic missiles, respectively, to the extent that the Secretary determines necessary in order to implement the treaty.

(c) FUNDING LIMITATION ON EARLY DEACTIVATION.—(1) If the limitation under paragraphs (2), (3), and (4) of subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended during fiscal year 1997 to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (b) until 30 days after the date on which the President submits to Congress a report concerning such actions.

(2) For purposes of this subsection, a substantial early deactivation is an action during fiscal year 1997 to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (b) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion.

(d) START II TREATY DEFINED.—For purposes of this section, the term “START II Treaty” means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the “START II Treaty” (contained in Treaty Document 103-1):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Elimination and Conversion Protocol”).

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Exhibitions and Inspections Protocol”).

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the “Memorandum on Attribution”).

(e) RETENTION OF B-52H AIRCRAFT ON ACTIVE STATUS.—(1) The Secretary of the Air Force shall maintain in active status (including the performance of standard maintenance and upgrades) the current fleet of B-52H bomber aircraft.

(2) For purposes of carrying out upgrades of B-52H bomber aircraft during fiscal year 1997, the Secretary shall treat the entire current fleet of such aircraft as aircraft expected to be maintained in active status during the six-year period beginning on October 1, 1996.

SEC. 1303. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.

(a) SANCTIONS.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended to read as follows:¹

“(4)(A) If the Secretary of State determines that—

“(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

“(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

“(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

“(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

“(v) any person knowingly aids or abets, after the date of enactment of the National Defense Authorization Act for Fiscal Year 1997, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

“(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over that person with respect to the imposition of the prohibition contained in subparagraph (C).

“(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay im-

¹For full text of Export-Import Bank Act of 1945, see *Legislation on Foreign Relations Through 2000*, vol. III.

position of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

“(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

“(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

“(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

“(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

“(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

“(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

“(I) reliable information indicates that—

“(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

“(bb) steps have been taken to ensure that the activities described in item (aa) will not resume;
or

“(II) the prohibition would have a serious adverse effect on vital United States interests.

“(F) For purposes of this paragraph:

“(i) The term ‘country’ has the meaning given to ‘foreign state’ in section 1603(a) of title 28, United States Code.

“(ii) The term ‘knowingly’ is used within the meaning of the term ‘knowing’ in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2(h)(3)).

“(iii) The term ‘person’ means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

“(iv) The term ‘nuclear-weapon state’ has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

“(v) The term ‘non-nuclear-weapon state’ has the meaning given the term in section 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

“(vi) The term ‘nuclear explosive device’ has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

“(vii) The term ‘unsafeguarded special nuclear material’ has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.”

(b) **RECOMMENDATIONS TO MAKE NONPROLIFERATION LAWS MORE EFFECTIVE.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress his recommendations on ways to make the laws of the United States more effective in controlling and preventing the proliferation of weapons of mass destruction and missiles. The report shall identify all sources of Government funds used for such nonproliferation activities.

SEC. 1304. AUTHORITY TO PAY CERTAIN EXPENSES RELATING TO HUMANITARIAN AND CIVIC ASSISTANCE FOR CLEARANCE OF LANDMINES.

(a) **AUTHORITY TO PAY EXPENSES.**—Section 401(c) of title 10, United States Code, is amended—* * *²

(b) * * *

SEC. 1305. REPORT ON MILITARY CAPABILITIES OF PEOPLE’S REPUBLIC OF CHINA.

(a) **REPORT.**—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the future pattern of military modernization of the People’s Republic of China. The report shall address both the probable course of military-technological de-

²For 10 U.S.C. 401, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

velopment in the People's Liberation Army and the development of Chinese military strategy and operational concepts.

(b) **MATTERS TO BE INCLUDED.**—The report shall include analyses and forecasts of the following:

(1) Trends that would lead the People's Republic of China toward advanced intelligence, surveillance, and reconnaissance capabilities, either through a development program or by gaining access to commercial or third-party systems with militarily significant capabilities.

(2) Efforts by the People's Republic of China to develop highly accurate and low-observable ballistic and cruise missiles, and the investments in infrastructure that would allow for production of such weapons in militarily significant quantities, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the region.

(3) Development by the People's Republic of China of enhanced command and control networks, particularly those capable of battle management that would include long-range precision strikes.

(4) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times.

(5) Exploitation by the People's Republic of China of the Global Positioning System or other similar systems, including commercial land surveillance satellites, for significant military purposes, including particularly for increasing the accuracy of weapons or the situational awareness of operating forces.

(6) Development by the People's Republic of China of capabilities for denial of sea control, such as advanced sea mines or improved submarine capabilities.

(7) Continued development by the People's Republic of China of follow-on forces, particularly those capable of rapid air or amphibious assault.

(c) **SUBMISSION OF REPORT.**—The report shall be submitted to Congress not later than February 1, 1997.

SEC. 1306. PRESIDENTIAL REPORT REGARDING WEAPONS PROLIFERATION AND POLICIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) **FINDINGS.**—The Congress finds that—

(1) the People's Republic of China acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (hereafter in this section referred to as the "NPT") on March 9, 1992;

(2) the People's Republic of China is not a member of the Nuclear Suppliers Group and remains the only major nuclear supplier that continues to transfer nuclear technology, equipment, and materials to countries that have not agreed to the application of safeguards of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") over all of their nuclear materials;

(3) on June 30, 1995, the United States and 29 other members of the Nuclear Suppliers Group notified the Director General of the IAEA that the Government of each respective country has decided that the controls of that Group should not be defeated by the transfer of component parts;

(4) a state-owned entity in the People's Republic of China, the China Nuclear Energy Industry Corporation, has knowingly transferred specially designed ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan;

(5) ring magnets are identified on the Trigger List of the Nuclear Suppliers Group as a component of magnetic suspension bearings which are to be exported only to countries that have safeguards of the IAEA over all of their nuclear materials;

(6) these ring magnets could contribute significantly to the ability of the Islamic Republic of Pakistan to produce additional unsafeguarded enriched uranium, a nuclear explosive material;

(7) the Government of the People's Republic of China has transferred nuclear equipment and technology to the Islamic Republic of Iran, despite repeated claims by the Government of the United States that the Islamic Republic of Iran is engaged in clandestine efforts to acquire a nuclear explosive device;

(8) representatives of the Government of the People's Republic of China have repeatedly assured the Government of the United States that the People's Republic of China would abide by the guidelines of the Missile Technology Control Regime (hereafter in this section referred to as the "MTCR");

(9) the Government of China has transferred M-11 missiles to the Islamic Republic of Pakistan; and

(10) the M-11 missile conforms to the definition of a nuclear-capable missile under the MTCR.

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

(1) the assistance that the People's Republic of China has provided to the Islamic Republic of Iran and to the Islamic Republic of Pakistan could contribute to the ability of such countries to manufacture nuclear weapons;

(2) the recent transfer by the People's Republic of China of ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan conflicts with China's obligations under Articles I and III of the NPT, as well as the official nonproliferation policies and assurances by the People's Republic of China and the Islamic Republic of Pakistan with respect to the nonproliferation of nuclear weapons and nuclear-capable missiles;

(3) the transfer of M-11 missiles from the People's Republic of China to the Islamic Republic of Pakistan is inconsistent with longstanding United States Government interpretations of assurances from the Government of the People's Republic of China with respect to that country's intent to abide by the guidelines of the MTCR;

(4) violations by the People's Republic of China of the standards and objectives of the MTCR and global nuclear nonproliferation regimes have jeopardized the credibility of the MTCR and such regimes;

(5) the MTCR and global nuclear nonproliferation regimes require collective international action to impose costs against and to withhold benefits from any country, including the Peo-

ple's Republic of China, that engages in activities that are contrary to the objectives of those regimes;

(6) the President should explore with the governments of other countries new opportunities for collective action in response to activities of any country, including the People's Republic of China, that aid or abet the global proliferation of weapons of mass destruction or their means of delivery; and

(7) the President should communicate to the Government of the People's Republic of China the sense of the Congress that the stability and growth of future relations between the people, the economies, and the Governments of the United States and the People's Republic of China will significantly depend upon substantive evidence of cooperation by the Government of the People's Republic of China in efforts to halt the global proliferation of weapons of mass destruction and their means of delivery.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in both classified and unclassified form, concerning the transfer from the People's Republic of China to the Islamic Republic of Pakistan of technology, equipment, or materials important to the production of nuclear weapons and their means of delivery. The President shall include in the report the following:

(1) The specific justification of the Secretary of State for determining that there was not a sufficient basis for imposing sanctions under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended by section 825 of the Nuclear Proliferation Prevention Act of 1994, by reason of the transfer of ring magnets and other technology, equipment, or materials from the People's Republic of China to the Islamic Republic of Pakistan.

(2) What commitment the United States Government is seeking from the People's Republic of China to ensure that the People's Republic of China establishes a fully effective export control system that will prevent transfers (such as the Pakistan sale) from taking place in the future.

(3) A description of the pledges, assurances, and other commitments made by representatives of the Governments of the People's Republic of China and the Islamic Republic of Pakistan to the Government of the United States since January 1, 1991, with respect to the nonproliferation of nuclear weapons or nuclear-capable missiles, and an assessment of the record of compliance with such undertakings.

(4) Whether, in light of the recent assurances provided by the People's Republic of China, the President intends to make the certification and submit the report required by section 902(a)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note), and make the certification and submit the report required by Public Law 99-183, relating to the approval and implementation of the agreement for nuclear cooperation between the United States and the People's Republic of China, and, if not, why not.

(5) Whether the Secretary of State considers the recent assurances and clarifications provided by the People's Republic of

China to have provided sufficient information to allow the United States to determine that the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954, as required by Public Law 99-183.

(6) If the President is unable or unwilling to make the certifications and reports referred to in paragraph (4), a description of what the President considers to be the significance of the clarifications and assurances provided by the People's Republic of China in the course of the recent discussions regarding the transfer by the People's Republic of China of nuclear-weapon-related equipment to the Islamic Republic of Pakistan.

(7) A description of the laws, regulations, and procedures currently used by the People's Republic of China to regulate exports of nuclear technology, equipment, or materials, including dual-use goods, and an assessment of the effectiveness of such arrangements.

(8) A description of the current policies and practices of other countries in response to the transfer of nuclear and missile technology by the People's Republic of China to the Islamic Republic of Pakistan and the Islamic Republic of Iran.

SEC. 1307. UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

None of the funds appropriated or otherwise available for the Department of Defense for fiscal year 1997 or any prior fiscal year may be obligated or expended for any activity associated with the United States-People's Republic of China Joint Defense Conversion Commission until 15 days after the date on which the first semi-annual report required by section 1343 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 487) is received by Congress.

SEC. 1308. SENSE OF CONGRESS CONCERNING EXPORT CONTROLS.

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

(1) Export controls are a part of a comprehensive response to national security threats. The export of a United States commodity or technology should be restricted in cases in which the export of the commodity or technology would increase the threat to the national security of the United States or would be contrary to the nonproliferation goals or foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of countries or by enhancing the capability of countries to design, develop, test, produce, stockpile, or use weapons of mass destruction and missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce,

stockpile, use, and deliver nuclear, chemical, and biological weapons and missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 8, 1995, the President continued the national emergency declared in Executive Order No. 12938 of November 14, 1994, "with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Committee for Multilateral Export Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

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

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should be a top priority for the United States; and

(2) the United States should strongly encourage its allies and other friendly countries to—

(A) adopt export controls that are the same or similar to the export controls imposed by the United States on items on the Commerce Control List;

(B) strengthen enforcement of their export controls; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to the enhancement of military capabilities or proliferation described in paragraphs (3) and (5) of subsection (a).

SEC. 1309. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.

(a) COMPOSITION OF THE COMMITTEE.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by adding at the end the following new paragraph: * * *

(b) * * *

(c) * * *

(d) REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended—* * *

SEC. 1310. SENSE OF CONGRESS CONCERNING ASSISTING OTHER COUNTRIES TO IMPROVE SECURITY OF FISSILE MATERIAL.

(a) FINDINGS.—Congress finds the following:

(1) With the end of the Cold War, the world is faced with the need to manage the dismantling of vast numbers of nuclear weapons and the disposition of the fissile materials that they contain.

(2) If recently agreed reductions in nuclear weapons are fully implemented, tens of thousands of nuclear weapons, containing a hundred tons or more of plutonium and many hundreds of tons of highly enriched uranium, will no longer be needed for military purposes.

(3) Plutonium and highly enriched uranium are the essential ingredients of nuclear weapons.

(4) Limits on access to plutonium and highly enriched uranium are the primary technical barrier to acquiring nuclear weapons capability in the world today.

(5) Several kilograms of plutonium, or several times that amount of highly enriched uranium, are sufficient to make a nuclear weapon.

(6) Plutonium and highly enriched uranium will continue to pose a potential threat for as long as they exist.

(7) Action is required to secure and account for plutonium and highly enriched uranium.

(8) It is in the national interest of the United States to—

(A) minimize the risk that fissile materials could be obtained by unauthorized parties;

(B) minimize the risk that fissile materials could be re-introduced into the arsenals from which they came, halting or reversing the arms reduction process; and

(C) strengthen the national and international control mechanisms and incentives designed to ensure continued arms reductions and prevent the spread of nuclear weapons.

(b) SENSE OF CONGRESS.—In light of the findings contained in subsection (a), it is the sense of Congress that the United States has a national security interest in assisting other countries to improve the security of their stocks of fissile material.

SEC. 1311. REVIEW BY DIRECTOR OF CENTRAL INTELLIGENCE OF NATIONAL INTELLIGENCE ESTIMATE 95-19.

(a) REVIEW.—The Director of Central Intelligence shall conduct a review of the underlying assumptions and conclusions of the National Intelligence Estimate designated as NIE 95-19 and entitled “Emerging Missile Threats to North America During the Next 15 Years”, released by the Director in November 1995.

(b) METHODOLOGY FOR REVIEW.—The Director shall carry out the review under subsection (a) through a panel of independent, non-governmental individuals with appropriate expertise and experience. Such a panel shall be convened by the Director not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—The Director shall submit the findings resulting from the review under subsection (a), together with any comments of the Director on the review and the findings, to Congress not

later than three months after the appointment of the Commission under section 1321.

SUBTITLE B—COMMISSION TO ASSESS THE BALLISTIC MISSILE
THREAT TO THE UNITED STATES

SEC. 1321. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the “Commission To Assess the Ballistic Missile Threat to the United States” (hereafter in this subtitle referred to as the “Commission”).

(b) **COMPOSITION.**—The Commission shall be composed of nine members appointed by the Director of Central Intelligence. In selecting individuals for appointment to the Commission, the Director should consult with—

(1) the Speaker of the House of Representatives concerning the appointment of three of the members of the Commission;

(2) the majority leader of the Senate concerning the appointment of three of the members of the Commission; and

(3) the minority leader of the House of Representatives and the minority leader of the Senate concerning the appointment of three of the members of the Commission.

(c) **QUALIFICATIONS.**—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political and military aspects of proliferation of ballistic missiles and the ballistic missile threat to the United States.

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

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

(f) **SECURITY CLEARANCES.**—All members of the Commission shall hold appropriate security clearances.

(g) **INITIAL ORGANIZATION REQUIREMENTS.**—(1) All appointments to the Commission shall be made not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.³

(2) The Commission shall convene its first meeting not later than 60 days⁴ after the date as of which all members of the Commission have been appointed.⁵

³Sec. 1306(a)(1) of Public Law 105-85 (111 Stat. 1955) struck out “not later than 45 days after the date of the enactment of this Act” and inserted in lieu thereof “not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998”.

⁴Sec. 1306(a)(2)(A) of Public Law 105-85 (111 Stat. 1955) struck out “30 days” and inserted in lieu thereof “60 days”.

⁵Sec. 1306(a)(2)(B) of Public Law 105-85 (111 Stat. 1955) struck out “, but not earlier than October 15, 1996”.

SEC. 1322. DUTIES OF COMMISSION.

(a) **REVIEW OF BALLISTIC MISSILE THREAT.**—The Commission shall assess the nature and magnitude of the existing and emerging ballistic missile threat to the United States.

(b) **COOPERATION FROM GOVERNMENT OFFICIALS.**—In carrying out its duties, the Commission should receive the full and timely cooperation of the Secretary of Defense, the Director of Central Intelligence, and any other United States Government official responsible for providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

SEC. 1323. REPORT.

The Commission shall, not later than six months after the date of its first meeting, submit to the Congress a report on its findings and conclusions.

SEC. 1324. POWERS.

(a) **HEARINGS.**—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) **INFORMATION.**—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

SEC. 1325. COMMISSION PROCEDURES.

(a) **MEETINGS.**—The Commission shall meet at the call of the Chairman.

(b) **QUORUM.**—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) **COMMISSION.**—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

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

SEC. 1326. PERSONNEL MATTERS.

(a) **PAY OF MEMBERS.**—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their

homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 1327. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) **POSTAL AND PRINTING SERVICES.**—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) **MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.**—The Director of Central Intelligence shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 1328. FUNDING.

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1997 and fiscal year 1998.⁶ Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

SEC. 1329. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the date of the submission of its report under section 1323.

* * * * *

⁶Sec. 1306(b) of Public Law 105-85 (111 Stat. 1955) inserted “and fiscal year 1998” after “fiscal year 1997”.

f. National Defense Authorization Act for Fiscal Year 1996

Partial text of Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE XIV—ARMS CONTROL MATTERS

SEC. 1401. REVISION OF DEFINITION OF LANDMINE FOR PURPOSES OF LANDMINE EXPORT MORATORIUM.

Section 1423(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1832) is amended—* * *¹

SEC. 1402. REPORTS ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.

Not later than April 30 of each of 1996, 1997, and 1998, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees a report on the projected effects of a moratorium on the defensive use of antipersonnel mines and antitank mines by the Armed Forces. The report shall include a discussion of the following matters:

- (1) The extent to which current doctrine and practices of the Armed Forces on the defensive use of antipersonnel mines and antitank mines adhere to applicable international law.
- (2) The effects that a moratorium would have on the defensive use of the current United States inventory of remotely delivered, self-destructing antitank systems, antipersonnel mines, and antitank mines.
- (3) The reliability of the self-destructing antipersonnel mines and self-destructing antitank mines of the United States.
- (4) The cost of clearing the antipersonnel minefields currently protecting Naval Station Guantanamo Bay, Cuba, and other United States installations.
- (5) The cost of replacing antipersonnel mines in such minefields with substitute systems such as the Claymore mine, and the level of protection that would be afforded by use of such a substitute.

¹ For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

(6) The extent to which the defensive use of antipersonnel mines and antitank mines by the Armed Forces is a source of civilian casualties around the world, and the extent to which the United States, and the Department of Defense particularly, contributes to alleviating the illegal and indiscriminate use of such munitions.

(7) The extent to which the threat to the security of United States forces during operations other than war and combat operations would increase as a result of such a moratorium.

SEC. 1403. EXTENSION AND AMENDMENT OF COUNTER-PROLIFERATION AUTHORITIES.

(a) ONE-YEAR EXTENSION OF PROGRAM.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484; 22 U.S.C. 5859a) is amended—* * *

SEC. 1404. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, unless and until the START II Treaty enters into force, the Secretary of Defense should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the following strategic nuclear delivery systems:

- (1) B-52H bomber aircraft.
- (2) Trident ballistic missile submarines.
- (3) Minuteman III intercontinental ballistic missiles.
- (4) Peacekeeper intercontinental ballistic missiles.

(b) LIMITATION ON USE OF FUNDS.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1996 for retiring or dismantling, or for preparing to retire or dismantle, any of the strategic nuclear delivery systems specified in subsection (a).

SEC. 1405. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING TREATY VIOLATIONS.

(a) REAFFIRMATION OF PRIOR FINDINGS CONCERNING THE KRASNOYARSK RADAR.—Congress, noting its previous findings with respect to the large phased-array radar of the Soviet Union known as the “Krasnoyarsk radar” stated in paragraphs (1) through (4) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135) (and reaffirmed in section 1006(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1543)), hereby reaffirms those findings as follows:

- (1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.
- (2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.
- (3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(b) FURTHER REFERENCE TO 1987 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 902 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135) Congress also—

(1) noted that the President had certified that the Krasnoyarsk radar was an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union was in violation of its legal obligation under that treaty.

(c) FURTHER REFERENCE TO 1989 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 1006(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1543) Congress also—

(1) again noted that in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty and noted that on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union should dismantle the Krasnoyarsk radar expeditiously and without conditions and that until such radar was completely dismantled it would remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

(d) ADDITIONAL FINDINGS.—Congress also finds, with respect to the Krasnoyarsk radar, that retired Soviet General Y.V. Votintsev, Director of the Soviet National Air Defense Forces from 1967 to 1985, has publicly stated—

(1) that he was directed by the Chief of the Soviet General staff to locate the large phased-array radar at Krasnoyarsk despite the recognition by Soviet authorities that the location of such a radar at that location would be a clear violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) that Marshal D.F. Ustinov, Soviet Minister of Defense, threatened to relieve from duty any Soviet officer who continued to object to the construction of a large-phased array radar at Krasnoyarsk.

(e) SENSE OF CONGRESS CONCERNING SOVIET TREATY VIOLATIONS.—It is the sense of Congress that the government of the Soviet Union intentionally violated its legal obligations under the 1972 Anti-Ballistic Missile Treaty in order to advance its national security interests.

(f) SENSE OF CONGRESS CONCERNING COMPLIANCE BY RUSSIA WITH ARMS CONTROL OBLIGATIONS.—In light of subsections (a) through (e), it is the sense of Congress that the United States should remain vigilant in ensuring compliance by Russia with its arms control obligations and should, when pursuing future arms control agreements with Russia, bear in mind violations of arms control obligations by the Soviet Union.

SEC. 1406. SENSE OF CONGRESS ON RATIFICATION OF CHEMICAL WEAPONS CONVENTION AND START II TREATY.

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

(1) Proliferation of chemical or nuclear weapons materials poses a danger to United States national security, and the threat or use of such materials by terrorists would directly threaten United States citizens at home and abroad.

(2) Events such as the March 1995 terrorist release of a chemical nerve agent in the Tokyo subway, the threatened use of chemical weapons during the 1991 Persian Gulf War, and the widespread use of chemical weapons during the Iran-Iraq War of the 1980's are all potent reminders of the menace posed by chemical weapons, of the fact that the threat of chemical weapons is not sufficiently addressed, and of the need to outlaw the development, production, and possession of chemical weapons.

(3) The Chemical Weapons Convention negotiated and signed by President Bush would make it more difficult for would-be proliferators, including terrorists, to acquire or use chemical weapons, if ratified and fully implemented, as signed, by all signatories.

(4) United States military authorities, including Chairman of the Joint Chiefs of Staff General John Shalikashvili, have stated that United States military forces will deter and respond to chemical weapons threats with a robust chemical defense and an overwhelming superior conventional response, as demonstrated in the Persian Gulf War, and have testified in support of the ratification of the Chemical Weapons Convention.

(5) The United States intelligence community has testified that the Convention will provide new and important sources of information, through regular data exchanges and routine and challenge inspections, to improve the ability of the United States to assess the chemical weapons status in countries of concern.

(6) The Convention has not entered into force for lack of the requisite number of ratifications.

(7) Russia has signed the Convention, but has not yet ratified it.

(8) There have been reports by Russian sources of continued Russian production and testing of chemical weapons, including a statement by a spokesman of the Russian Ministry of Defense on December 5, 1994, that "We cannot say that all chemical weapons production and testing has stopped altogether."

(9) The Convention will impose a legally binding obligation on Russia and other nations that possess chemical weapons and that ratify the Convention to cease offensive chemical weapons activities and to destroy their chemical weapons stockpiles and production facilities.

(10) The United States must be prepared to exercise fully its rights under the Convention, including the request of challenge inspections when warranted, and to exercise leadership in pursuing punitive measures against violators of the Convention, when warranted.

(11) The United States should strongly encourage full implementation at the earliest possible date of the terms and conditions of the United States-Russia bilateral chemical weapons destruction agreement signed in 1990.

(12) The START II Treaty negotiated and signed by President Bush would help reduce the danger of potential proliferators, including terrorists, acquiring nuclear warheads and materials, and would contribute to United States-Russian bilateral efforts to secure and dismantle nuclear warheads, if ratified and fully implemented as signed by both parties.

(13) It is in the national security interest of the United States to take effective steps to make it more difficult for proliferators or would-be terrorists to obtain chemical or nuclear materials for use in weapons.

(14) The President has urged prompt Senate action on, and advice and consent to ratification of, the START II Treaty and the Chemical Weapons Convention.

(15) The Chairman of the Joint Chiefs of Staff has testified to Congress that ratification and full implementation of both treaties by all parties is in the United States national interest and has strongly urged prompt Senate advice and consent to their ratification.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States, Russia, and all other parties to the START II Treaty and the Chemical Weapons Convention should promptly ratify and fully implement, as negotiated, both treaties.

SEC. 1407. IMPLEMENTATION OF ARMS CONTROL AGREEMENTS.

(a) FUNDING.—Of the amounts appropriated pursuant to authorizations in sections 102, 103, 104, 201, and 301, the Secretary of Defense may use an amount not to exceed \$239,941,000 for implementing arms control agreements to which the United States is a party.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) for the costs of implementing an arms control agreement may not (except as provided in paragraph (2)) be used to reimburse expenses incurred by any other party to the agreement for which (without regard to any executive agreement or any policy not part of an arms control agreement)—

(A) the other party is responsible under the terms of the arms control agreement; and

(B) the United States has no responsibility under the agreement.

(2) The limitation in paragraph (1) does not apply to a use of funds to carry out an arms control expenses reimbursement policy of the United States described in subsection (c).

(c) COVERED ARMS CONTROL EXPENSES REIMBURSEMENT POLICIES.—Subsection (b)(2) applies to a policy of the United States to reimburse expenses incurred by another party to an arms control agreement if—

(1) the policy does not modify any obligation imposed by the arms control agreement;

(2) the President—

- (A) issued or approved the policy before the date of the enactment of this Act; or
- (B) entered into an agreement on the policy with the government of another country or approved an agreement on the policy entered into by an official of the United States and the government of another country; and
- (3) the President has notified the designated congressional committees of the policy or the policy agreement (as the case may be), in writing, at least 30 days before the date on which the President issued or approved the policy or has entered into or approved the policy agreement.
- (d) DEFINITIONS.—For the purposes of this section:
- (1) The term “arms control agreement” means an arms control treaty or other form of international arms control agreement.
- (2) The term “executive agreement” means an international agreement entered into by the President that is not authorized by law or entered into as a Treaty to which the Senate has given its advice and consent to ratification.
- (3) The term “designated congressional committees” means the following:
- (A) The Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.
- (B) The Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.

SEC. 1408. IRAN AND IRAQ ARMS NONPROLIFERATION.

(a) SANCTIONS AGAINST TRANSFERS OF PERSONS.—Section 1604(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102-484; 50 U.S.C. 1701 note) is amended by inserting “to acquire chemical, biological, or nuclear weapons or” before “to acquire”.

(b) SANCTIONS AGAINST TRANSFERS OF FOREIGN COUNTRIES.—Section 1605(a) of such Act is amended by inserting “to acquire chemical, biological, or nuclear weapons or” before “to acquire”.

(c) CLARIFICATION OF UNITED STATES ASSISTANCE.—Subparagraph (A) of section 1608(7) of such Act is amended to read as follows:

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

(d) NOTIFICATION OF CERTAIN WAIVERS UNDER MTCR PROCEDURES.—Section 73(e)(2) of the Arms Export Control Act (22 U.S.C. 2797b(e)(2)) is amended—* * *²

²See *Legislation on Foreign Relations Through 2001*, vol. I-A.

g. National Defense Authorization Act for Fiscal Year 1995

Partial text of Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663 at 2882, approved October 5, 1994; amended by Public Law 104-201 [National Defense Authorization Act For Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 111 Stat. 512, approved October 5, 1999

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XV—ARMS CONTROL MATTERS

* * * * *

SEC. 1503.¹ REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) ANNUAL REPORT REQUIRED.—Not later than February 1 of each year, the Secretary² of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

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

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

(2) A complete description of the requirements and priorities established by the Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the

¹ 22 U.S.C. 2751 note.

² Sec. 1504(c) of Public Law 106-65 (113 Stat. 808) struck out “May 1 of each year” and inserted in lieu thereof “February 1 of each year”. Previously, sec. 1309(d)(1)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2710) struck out “REPORT REQUIRED.—(1) Not later than May 1, 1995 and May 1, 1996, the Secretary” and inserted in lieu thereof “ANNUAL REPORT REQUIRED.—Not later than May 1 of each year, the Secretary”; and sec. 1309(d)(1)(B) struck out para. (2).

Review Committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each Review Committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) **FORMS OF REPORT.**—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

(d)³ **REVIEW COMMITTEE CHARTER DEFINED.**—For purposes of this section, the term “Review Committee charter” means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

(e)³ **TERMINATION OF REQUIREMENT.**—The final report required under subsection (a) is the report for the year following the year in which the Counterproliferation Program Review Committee established under the Review Committee Charter ceases to exist.

SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) **COUNTERPROLIFERATION ACTIVITIES.**—Of the amount authorized to be appropriated in section 201(4), \$16,500,000 shall be available for counterproliferation activities.

(b) **LIMITATION.**—(1) Of the funds made available pursuant to subsection (a), \$4,000,000 may not be obligated until the Secretary of Defense submits to Congress a report on a proposed classified counterproliferation database system. The report shall provide—

(A) an assessment of current major databases and software capabilities of entities in the intelligence community and of national weapons laboratories and laboratories of the Armed Forces against capabilities defined in the proposed project; and

(B) an assessment of the technical feasibility of the proposed system, program plan, strategy, milestones and future year funding.

(2) No funds may be obligated for the database system described in the report until the Secretary of Defense and the Director of

³Sec. 1309(d)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2710) added subsecs. (d) and (e).

Central Intelligence enter into a written agreement concerning the program to develop that database system that provides—

(A) how funding for that program is to be divided between (i) the account of the National Foreign Intelligence Program, and (ii) Tactical Intelligence and Related Program accounts; and

(B) a plan for the sources of funds for, and the programmed amounts for, that program for fiscal years after fiscal year 1995.

(c) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than \$2,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(d) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), as amended by section 1502. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed \$100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to \$5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) up to \$10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the

maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union.

(B) Of the funds available under paragraph (1)(B) for the program referred to in subparagraph (A), \$9,000,000 may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional committees specified in subparagraph (C) a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and states of the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1)(B); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

(C) The congressional committees referred to in this subparagraph are the following:

(i) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.⁴

(ii) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

* * * * *

SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the Na-

⁴Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

tional Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2560).

SEC. 1507. LIMITATION ON FUNDS FOR STUDIES PENDING RECEIPT OF PREVIOUSLY REQUIRED REPORT.

(a) **LIMITATION.**—Of the total amount specified in section 1505 for counterproliferation activities for fiscal year 1995, \$1,000,000 shall be withheld from obligation until the report described in subsection (b) has been submitted to Congress.

(b) **REPORT.**—The report referred to in subsection (a) is the report required to be submitted to Congress not later than May 30, 1994, pursuant to section 1422 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1829).

SEC. 1508. SENSE OF CONGRESS CONCERNING INDEFINITE EXTENSION OF NUCLEAR NON-PROLIFERATION TREATY.

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

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, is the centerpiece of global efforts to prevent the spread of nuclear weapons.

(2) The United States has demonstrated longstanding support for that treaty and related efforts to prevent the spread of nuclear weapons.

(3) President Clinton has declared that preventing the spread of nuclear weapons is one of the highest priorities of his Administration.

(4) In April 1995, the parties to the Treaty on the Non-Proliferation of Nuclear Weapons will convene a conference in New York City to discuss the indefinite extension of the treaty.

(5) The policy of the President is to seek at that conference the indefinite and unconditional extension of that treaty.

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

(1) the President has the full support of Congress in seeking the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) the President, when formulating and implementing other elements of nonproliferation policy of the United States (including United States counterproliferation doctrine, the Nuclear Posture Review, and nuclear testing policy), should take into account the objectives of the United States at the 1995 conference of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(3) the President and the President's senior national security advisers should dedicate themselves to ensuring the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 conference for that treaty.

SEC. 1509. NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

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

(1) On January 25, 1994, the United States and 37 other nations began negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President extended the current United States moratorium on nuclear weapons testing through September 1995.

(3) The United States is seeking to extend indefinitely the Treaty on the Non-Proliferation of Nuclear Weapons at the conference of the parties to the Treaty to be held in New York City in April 1995.

(4) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Treaty on the Non-Proliferation of Nuclear Weapons.

(5) Agreements to eliminate nuclear weapons testing and to control the spread of nuclear weapons could contribute to the national security of the United States, its allies, and other nations around the world.

(b) STATEMENT OF CONGRESSIONAL POLICY.—In view of the findings set forth in subsection (a), Congress—

(1) applauds the President for maintaining the United States moratorium on nuclear weapons testing and for taking a leadership role toward negotiation of a comprehensive nuclear test ban treaty;

(2) encourages all nuclear powers to refrain from conducting nuclear explosions, before the conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the Conference on Disarmament to make all possible progress toward a comprehensive nuclear test ban treaty by the end of 1994.

h. National Defense Authorization Act for Fiscal Year 1994

Partial text of Public Law 103-160 [H.R. 2401], 107 Stat. 1547 at 1841, approved November 30, 1993; amended by Public Law 103-337 [National Defense Authorization for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 106-65 [National Defense Authorization Act for Fiscal Year 2000; S. 1019], 114 Stat. 512, approved October 5, 1999

An Act To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1994”.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * *

TITLE XVI—ARMS CONTROL MATTERS

SUBTITLE A—PROGRAMS IN SUPPORT OF THE PREVENTION AND CONTROL OF PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

SEC. 1601. STUDY OF GLOBAL PROLIFERATION OF STRATEGIC AND ADVANCED CONVENTIONAL MILITARY WEAPONS AND RELATED EQUIPMENT AND TECHNOLOGY.

(a) **STUDY.**—The President shall conduct a study of (1) the factors that contribute to the proliferation of strategic and advanced conventional military weapons and related equipment and technologies, and (2) the policy options that are available to the United States to inhibit such proliferation.

(b) **CONDUCT OF STUDY.**—In carrying out the study the President shall do the following:

(1) Identify those factors contributing to global weapons proliferation which can be most effectively regulated.

(2) Identify and assess policy approaches available to the United States to discourage the transfer of strategic and advanced conventional military weapons and related equipment and technology.

(3) Assess the effectiveness of current multilateral efforts to control the transfer of such military weapons and equipment and such technology.

(4) Identify and examine methods by which the United States could reinforce these multilateral efforts to discourage the transfer of such weapons and equipment and such technology, including placing conditions on assistance provided by the United States to other nations.

(5) Identify the circumstances under which United States national security interests might best be served by a transfer of conventional military weapons and related equipment and technology, and specifically assess whether such circumstances exist when such a transfer is made to an allied country which, with the United States, has mutual national security interests to be served by such a transfer.

(6) Assess the effect on the United States economy and the national technology and industrial base (as defined by section 2491(1) of title 10, United States Code) which might result from potential changes in United States policy controlling the transfer of such military weapons and related equipment and technology.

(c) ADVISORY BOARD.—(1) Within 15 days after the date of the enactment of this Act, the President shall establish an Advisory Board on Arms Proliferation Policy. The advisory board shall be composed of 5 members. The President shall appoint the members from among persons in private life who are noted for their stature and expertise in matters covered by the study required under subsection (a) and shall ensure, in making the appointments, that the advisory board is composed of members from diverse backgrounds. The President shall designate one of the members as chairman of the advisory board.

(2) The President is encouraged—

(A) to obtain the advice of the advisory board regarding the matters studied pursuant to subsection (a) and to consider that advice in carrying out the study; and

(B) to ensure that the advisory board is informed in a timely manner and on a continuing basis of the results of policy reviews carried out under the study by persons outside the board.

(3) The members of the advisory board shall receive no pay for serving on the advisory board. However, the members shall be allowed travel expenses and per diem in accordance with the regulations referred to in paragraph (6).

(4) Upon request of the chairman of the advisory board, the Secretary of Defense or the head of any other Federal department or agency may detail, without reimbursement for costs, any of the personnel of the department or agency to the advisory board to assist the board in carrying out its duties.

(5) The Secretary of Defense shall designate a federally funded research and development center with expertise in the matters covered by the study required under subsection (a) to provide the advisory board with such support services as the advisory board may need to carry out its duties.

(6) Except as otherwise provided in this section, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursu-

ant to that Act, shall apply to the advisory board. Subsections (e) and (f) of section 10 of such Act do not apply to the advisory board.

(7) The advisory board shall terminate 30 days after the date on which the President submits the final report of the advisory board to Congress pursuant to subsection (d)(2)(B).

(d) REPORTS.—(1) The Advisory Board on Arms Proliferation Policy shall submit to the President, not later than May 15, 1994, a report containing its findings, conclusions, and recommendations on the matters covered by the study carried out pursuant to subsection (a).

(2) The President shall submit to Congress, not later than June 1, 1994—

(A) a report on the study carried out pursuant to subsection (a), including the President's findings and conclusions regarding the matters considered in the study; and

(B) the report of the Advisory Board on Arms Proliferation Policy received under paragraph (1), together with the comments, if any, of the President on that report.

* * * * *

SEC. 1603. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.

(a) AUTHORIZATION TO CONDUCT STUDIES.—The Secretary¹ of Defense may conduct studies and analysis programs in support of the counterproliferation policy of the United States.

(b) COUNTERPROLIFERATION STUDIES.—Studies and analysis programs under this section may include programs intended to explore defense policy issues that might be involved in efforts to prevent and counter the proliferation of weapons of mass destruction and their delivery systems. Such efforts include—

(1) enhancing United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction;

(2) cooperating in international programs to enhance military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction; and

(3) otherwise contributing to Department of Defense capabilities to deter, identify, monitor, and respond to such terrorism, theft, and proliferation involving weapons of mass destruction.

(c) DESIGNATION OF COORDINATOR.—The Under Secretary of Defense for Policy, subject to the supervision and control of the Secretary of Defense, shall coordinate the policy studies and analysis of the Department of Defense on countering proliferation of weapons of mass destruction and their delivery systems.

¹Sec. 1505(a) of Public Law 103-337 (108 Stat. 2919) struck out "During fiscal year 1994, the Secretary" and inserted in lieu thereof "The Secretary".

(d)² REPORT.—Not later than April 30 of each year,³ the Secretary of Defense shall submit to the appropriate congressional committees a report on the activities carried out under subsection (a). Each report shall set forth for the twelve-month⁴ period ending on the last day of the month preceding the month in which the report is due the following:

- (1) A description of the studies and analysis carried out.
- (2) The amounts spent for such studies and analysis.
- (3) The organizations that conducted the studies and analysis.
- (4) An explanation of the extent to which such studies and analysis contribute⁵ to the counterproliferation policy of the United States and United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction.
- (5) A description of the measures being taken to ensure that such studies and analysis within the Department of Defense are⁶ managed effectively and coordinated comprehensively.

SEC. 1604. SENSE OF CONGRESS REGARDING UNITED STATES CAPABILITIES TO PREVENT AND COUNTER WEAPONS PROLIFERATION.

It is the sense of Congress that—

- (1) the United States should have the ability to counter effectively potential threats to United States interests that arise from the proliferation of such weapons;
- (2) the Department of Defense, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the intelligence community have important roles, as well as unique capabilities and expertise, in preventing the proliferation of weapons of mass destruction and dealing with the consequences of any proliferation of such weapons, including capabilities and expertise regarding—
 - (A) detection and monitoring of proliferation of weapons of mass destruction;
 - (B) development of effective export control regimes;

²Sec. 1505(b) of Public Law 103-337 (108 Stat. 2919) struck out subssecs. (d) and (e), and redesignated former subsec. (f) as subsec. (d). Former subssecs. (d) and (e) read as follows:

“(d) FUNDS.—Funds for programs authorized in this section shall be derived from amounts made available to the Department of Defense for fiscal year 1994 or from balances in working capital accounts of the Department of Defense. The total amount expended for fiscal year 1994 to carry out studies and analysis programs under subsection (a) may not exceed \$6,000,000.

“(e) RESTRICTION.—None of the funds referred to in subsection (d) shall be available for the purposes stated in this section until 15 days after the date on which the Secretary of Defense submits to the appropriate congressional committees a report setting forth—

“(1) a description of all of the activities within the Department of Defense that are being carried out or are to be carried out for the purposes stated in this section;

“(2) the plan for coordinating and integrating those activities within the Department of Defense;

“(3) the plan for coordinating and integrating those activities with those of other Federal agencies; and

“(4) the sources of the funds to be used for such purposes.”.

³Sec. 1505(b)(3)(A) of Public Law 103-337 (108 Stat. 2919) struck out “and not later than October 30 of each year” at this point. Sec. 1504(b)(1) of Public Law 104-106 (110 Stat. 513) struck out a second comma at this point.

⁴Sec. 1505(b)(3)(B) of Public Law 103-337 (108 Stat. 2919) struck out “six-month” and inserted in lieu thereof “twelve-month”.

⁵Sec. 1504(b)(2) of Public Law 104-106 (110 Stat. 513) struck out “contributes” and inserted in lieu thereof “contribute”.

⁶Sec. 1504(b)(3) of Public Law 104-106 (110 Stat. 513) struck out “is” and inserted in lieu thereof “are”.

- (C) interdiction and destruction of weapons of mass destruction and related weapons material; and
- (D) carrying out international monitoring and inspection regimes that relate to proliferation of such weapons and material;
- (3) the Department of Defense, the Department of Energy, and the intelligence community have unique capabilities and expertise that contribute directly to the ability of the United States to implement United States policy to counter effectively the threats that arise from the proliferation of weapons of mass destruction, including capabilities and expertise regarding—
 - (A) responses to terrorism, theft, or accidents involving weapons of mass destruction;
 - (B) conduct of intrusive international inspections for verification of arms control treaties;
 - (C) direct and discrete counterproliferation actions that require use of force; and
 - (D) development and deployment of active military countermeasures and protective measures against threats resulting from arms proliferation, including defenses against ballistic missile attacks; and
- (4) the United States should continue to maintain and improve its capabilities to identify, monitor, and respond to the proliferation of weapons of mass destruction and delivery systems for such weapons.

SEC. 1605.⁷ JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION⁸ PROGRAMS OF THE UNITED STATES.

(a) ESTABLISHMENT.—(1) There is hereby established a Counterproliferation Program Review Committee⁹ composed of the following members:

- (A) The Secretary of Defense.
- (B) The Secretary of Energy.
- (C) The Director of Central Intelligence.
- (D) The Chairman of the Joint Chiefs of Staff.

(2) The Secretary of Defense shall chair the committee. The Secretary of Energy shall serve as the Vice Chairman of the committee.¹⁰

(3) A member of the committee may designate a representative to perform routinely the duties of the member. A representative shall be in a position of Deputy Assistant Secretary or a position equivalent to or above the level of Deputy Assistant Secretary. A representative of the Chairman of the Joint Chiefs of Staff shall be a person in a grade equivalent to that of Deputy Assistant Secretary of Defense.

⁷ 22 U.S.C. 2751 note.

⁸ Sec. 1502(f) of Public Law 103-337 (108 Stat. 2916) struck out “PROLIFERATION” from the section catchline, inserting in lieu thereof “COUNTERPROLIFERATION”.

⁹ Sec. 1502(a)(1)(A) of Public Law 103-337 (108 Stat. 2915) struck out “Non-Proliferation Program Review Committee” and inserted in lieu thereof “Counterproliferation Program Review Committee”. Subpara. (B) of that sec. struck out subparas. (B) and (E) from this subsec., which referred to: “(B) The Secretary of State”, and “(E) The Director of the United States Arms Control and Disarmament Agency”. Subpara. (C) of that sec. subsequently redesignated the remaining subparas. (C), (D), and (F) as (B), (C), and (D).

¹⁰ Sec. 1502(a)(2) of Public Law 103-337 (108 Stat. 2915) added “The Secretary of Energy shall serve as the Vice Chairman of the committee.” to para. (2).

(4) The Secretary of Defense may delegate to the Under Secretary of Defense for Acquisition and Technology the performance of the duties of the Chairman of the committee. The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee.¹¹

(5)¹² The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee, except that during any period during which that position is vacant the Assistant Secretary of Defense for Strategy and Threat Reduction shall serve as the executive secretary.

(b) PURPOSES OF THE COMMITTEE.—The purposes of the committee are as follows:

(1) To optimize funding for, and ensure the development and deployment of—

(A) highly effective technologies and capabilities for the detection, monitoring, collection, processing, analysis, and dissemination of information in support of United States counterproliferation policy¹³ and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction;¹⁴ and

(B) disabling technologies in support of such policy.

(2) To identify and eliminate undesirable redundancies or uncoordinated efforts in the development and deployment of such technologies and capabilities.

(3)¹⁵ To establish priorities for programs and funding.

(4)¹⁵ To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

(5)¹⁵ To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

¹¹Sec. 1502(a)(3) of Public Law 103-337 (108 Stat. 2915) added this sentence to para. (4). Para. (4) of that subsec. struck out para. (5), which read as follows:

“(5) The members of the committee shall first meet not later than 30 days after the date of the enactment of this Act. Upon designation of working level officials and representatives, the members of the committee shall jointly notify the appropriate committees of Congress that the committee has been constituted. The notification shall identify the representatives designated pursuant to paragraph (3) and the working level officials of the committee.”

¹²Sec. 1309(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2710) added para. (5). It was subsequently amended and restated by sec. 1504(b) of Public Law 106-65 (113 Stat. 808). As originally enacted, the para. had read as follows:

“(5) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee.”

¹³Sec. 1502(b)(1) of Public Law 103-337 (108 Stat. 2915) struck out “nonproliferation policy” and inserted in lieu thereof “counterproliferation policy”.

¹⁴Sec. 1309(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2710) inserted “and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction” after “counterproliferation policy”.

¹⁵Sec. 1502(b)(2) of Public Law 103-337 (108 Stat. 2915) added paras. (3) through (6).

(6)¹⁵ To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.

(c) DUTIES.—The committee shall—

(1) identify and review existing and proposed capabilities and technologies for support of United States nonproliferation policy and counterproliferation policy¹⁶ with regard to—

- (A) intelligence;
- (B) battlefield surveillance;
- (C) passive defenses;
- (D) active defenses; and¹⁷
- (E) counterforce capabilities;

(2)¹⁸ prescribe requirements and priorities for the development and deployment of highly effective capabilities and technologies;¹⁹

(3)¹⁸ identify deficiencies in existing capabilities and technologies;

(4)¹⁸ formulate near-term, mid-term, and long-term programmatic options for meeting requirements established by the committee and eliminating deficiencies identified by the committee; and

(5)²⁰ assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.

(d) ACCESS TO INFORMATION.—The committee shall have access to information on all programs, projects, and activities of the Department of Defense, the Department of State, the Department of Energy, the intelligence community, and the Arms Control and Disarmament Agency that are pertinent to the purposes and duties of the committee.

¹⁶Sec. 1502(c)(1)(A) of Public Law 103-337 (108 Stat. 2915) struck out “(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy” and inserted in lieu thereof “and technologies for support of United States nonproliferation policy and counterproliferation policy”.

¹⁷Sec. 1502(c)(1) of Public Law 103-337 (108 Stat. 2915) added “and” at the end of subpara. (D), and struck out subparas. (F) and (G), which had referred to inspection support and support of export control programs.

¹⁸Sec. 1502(c)(2) and (4) of Public Law 103-337 (108 Stat. 2915) struck out paras. (2), (3), and (7), and redesignated paras. (4), (5), and (6) as paras. (2), (3), and (4). Paras. (2), (3), and (7), formerly provided as follows:

“(2) as part of the review pursuant to paragraph (1), review all directed energy and laser programs for detecting, characterizing, or interdicting weapons of mass destruction, their delivery platforms, or other orbiting platforms with a view to the elimination of redundancy and the optimization of funding for the systems not eliminated;

“(3) review the programs (including the crisis management program) developed by the Department of State to counter terrorism involving weapons of mass destruction and their delivery systems;

* * * * *
“(7) in carrying out the other duties of the committee, ensure that all types of counterproliferation actions are considered.”

¹⁹Sec. 1502(c)(3) of Public Law 103-337 (108 Stat. 2915) struck out “to support fully the nonproliferation policy of the United States” after “technologies” in para. (2) (redesignated from para. (4)).

²⁰Sec. 1502(c)(5) of Public Law 103-337 (108 Stat. 2915) added para. (5).

(e)²¹ RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.

(f) TERMINATION OF COMMITTEE.—The committee shall cease to exist at the end of September 30, 2004.²²

SEC. 1606. REPORT ON NONPROLIFERATION AND COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 1994, the Secretary of Defense shall submit to Congress a report on the findings of the committee on nonproliferation activities established by section 1605.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A complete list, by program, of the existing, planned, and proposed capabilities and technologies reviewed by the committee, including all directed energy and laser programs reviewed pursuant to section 1605(c)(2).

(2) A complete description of the requirements and priorities established by the committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the committee for meeting requirements prescribed by the committee and eliminating deficiencies identified by the committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to section 1605(e) and a full discussion of the actions taken on such recommendations, including the actions taken to implement the recommendations.

(5) A discussion of the existing and planned capabilities of the Department of Defense—

(A) to detect and monitor clandestine programs for the acquisition or production of weapons of mass destruction;

(B) to respond to terrorism or accidents involving such weapons and thefts of materials related to any weapon of mass destruction; and

(C) to assist in the interdiction and destruction of weapons of mass destruction, related weapons materials, and advanced conventional weapons.

²¹Sec. 1502(d) of Public Law 103-337 (108 Stat. 2916) amended and restated subsec. (e). It formerly read as follows:

“BUDGET RECOMMENDATIONS.—The committee may submit to the officials referred to in subsection (a) any recommendation regarding existing or planned budgets as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States nonproliferation policy.”

²²Sec. 1502(e) of Public Law 103-337 (108 Stat. 2916) struck out “six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress”, and inserted in lieu thereof “at the end of September 30, 1996”. Sec. 1309(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2710) struck out “September 30, 1996” and inserted in lieu thereof “September 30, 2000”. Sec. 1504(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 808) extended the Committee’s term through September 30, 2004.

(6) A description of—

(A) the extent to which the Secretary of Defense has incorporated nonproliferation and counterproliferation missions into the overall missions of the unified combatant commands; and

(B) how the special operations command established pursuant to section 167(a) of title 10, United States Code, might support the commanders of the other unified combatant commands and the commanders of the specified combatant commands in the performance of such overall missions.

(c) FORMS OF REPORT.—The report shall be submitted in both unclassified and classified forms, as appropriate.

SEC. 1607. DEFINITIONS.

For purposes of this subtitle:

(1) The term “appropriate congressional committees” means—

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

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.²³

(2) The term “intelligence community” has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SUBTITLE B—INTERNATIONAL NONPROLIFERATION ACTIVITIES

SEC. 1611. NUCLEAR NONPROLIFERATION.

(a) FINDINGS.—The Congress finds the following:

(1) The United States has been seeking to contain the spread of nuclear weapons technology and materials.

(2) With the end of the Cold War and the breakup of the Soviet Union, the proliferation of nuclear weapons is now a leading military threat to the national security of the United States and its allies.

(3) The United Nations Security Council declared on January 31, 1992, that “proliferation of all weapons of mass destruction constitutes a threat to international peace and security” and committed to taking appropriate action to prevent proliferation from occurring.

(4) Aside from the five declared nuclear weapon states, a number of other nations have or are pursuing nuclear weapons capabilities.

(5) The IAEA is a valuable international institution to counter proliferation, but the effectiveness of its system to safe-

²³ Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

guard nuclear materials may be adversely affected by financial constraints.

(6) The Nuclear Non-Proliferation Treaty codifies world consensus against further nuclear proliferation and is scheduled for review and extension in 1995.

(7) The Nuclear Nonproliferation Act of 1978 declared that the United States is committed to continued strong support for the Nuclear Non-Proliferation Treaty and to a strengthened and more effective IAEA, and established that it is United States policy to establish more effective controls over the transfer of nuclear equipment, materials, and technology.

(b) COMPREHENSIVE NUCLEAR NONPROLIFERATION POLICY.—In order to end nuclear proliferation and reduce current nuclear arsenals and supplies of weapons-usable nuclear materials, it should be the policy of the United States to pursue a comprehensive policy to end the further spread of nuclear weapons capability, roll back nuclear proliferation where it has occurred, and prevent the use of nuclear weapons anywhere in the world, with the following additional objectives:

(1) Successful conclusion of all pending nuclear arms control and disarmament agreements with all the republics of the former Soviet Union and their secure implementation.

(2) Full participation by all the republics of the former Soviet Union in all multilateral nuclear nonproliferation efforts and acceptance of IAEA safeguards on all their nuclear facilities.

(3) Strengthening of United States and international support to the IAEA so that the IAEA has the technical, financial, and political resources to verify that countries are complying with their nonproliferation commitments.

(4) Strengthening of nuclear export controls in the United States and other nuclear supplier nations, impose sanctions on individuals, companies, and countries which contribute to nuclear proliferation, and provide increased public information on nuclear export licenses approved in the United States.

(5) Reduction in incentives for countries to pursue the acquisition of nuclear weapons by seeking to reduce regional tensions and to strengthen regional security agreements, and encourage the United Nations Security Council to increase its role in enforcing international nuclear nonproliferation agreements.

(6) Support for the indefinite extension of the Nuclear Non-Proliferation Treaty at the 1995 conference to review and extend that treaty and seek to ensure that all countries sign the treaty or participate in a comparable international regime for monitoring and safeguarding nuclear facilities and materials.

(7) Reaching agreement with the Russian Federation to end the production of new types of nuclear warheads.

(8) Pursuing, once the START I treaty and the START II treaty are ratified by all parties, a multilateral agreement to significantly reduce the strategic nuclear arsenals of the United States and the Russian Federation to below the levels of the START II treaty, with lower levels for the United Kingdom, France, and the People's Republic of China.

(9) Reaching immediate agreement with the Russian Federation to halt permanently the production of fissile material for weapons purposes, and working to achieve worldwide agreements to—

(A) end in the shortest possible time the production of weapons-usable fissile material;

(B) place existing stockpiles of such materials under bilateral or international controls; and

(C) require countries to place all of their nuclear facilities dedicated to peaceful purposes under IAEA safeguards.

(10) Strengthening IAEA safeguards to more effectively verify that countries are complying with their nonproliferation commitments and provide the IAEA with the political, technical, and financial support necessary to implement the necessary safeguard reforms.

(11) Conclusion of a multilateral comprehensive nuclear test ban treaty.

(c) REQUIREMENTS FOR IMPLEMENTATION OF POLICY.—(1) Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in unclassified form, with a classified appendix if necessary, on the actions the United States has taken and the actions the United States plans to take during the succeeding 12-month period to implement each of the policy objectives set forth in this section.

(2) Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress a report in unclassified form, with a classified appendix if necessary, which—

(A) addresses the implications of the adoption by the United States of a policy of no-first-use of nuclear weapons;

(B) addresses the implications of an agreement with the other nuclear weapons states to adopt such a policy; and

(C) addresses the implications of a verifiable bilateral agreement with the Russian Federation under which both countries withdraw from their arsenals and dismantle all tactical nuclear weapons, and seek to extend to all nuclear weapons states this zero option for tactical nuclear weapons.

(d) DEFINITIONS.—For purposes of this section:

(1) The term “IAEA” means the International Atomic Energy Agency.

(2) The term “IAEA safeguards” means the safeguards set forth in an agreement between a country and the IAEA, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(3) The term “non-nuclear weapon state” means any country that is not a nuclear weapon state.

(4) The term “Nuclear Non-Proliferation Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(5) The term “nuclear weapon state” means any country that is a nuclear-weapon state, as defined by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(6) The term “weapons-usable fissile materials” means highly enriched uranium and separated or reprocessed plutonium.

(7) The term “policy of no first use of nuclear weapons” means a commitment not to initiate the use of nuclear weapons.

(8) The term “START II treaty” means the Treaty on Further Reductions and Limitations of Strategic Offensive Arms, signed by the United States and the Russian Federation on January 3, 1993.

SEC. 1612.²⁴ CONDITION ON ASSISTANCE TO RUSSIA FOR CONSTRUCTION OF PLUTONIUM STORAGE FACILITY.

(a) **LIMITATION.**—Until a certification under subsection (b) is made, no funds may be obligated or expended by the United States for the purpose of assisting the Ministry of Atomic Energy of Russia to construct a storage facility for surplus plutonium from dismantled weapons.

(b)²⁵ **CERTIFICATION OF RUSSIA’S COMMITMENT TO HALT CHEMICAL SEPARATION OF WEAPON-GRADE PLUTONIUM.**—The prohibition in subsection (a) shall cease to apply upon a certification by the President to Congress that Russia—

(1) is committed to halting the chemical separation of weapon-grade plutonium from spent nuclear fuel; and

(2) is taking all practical steps to halt such separation at the earliest possible date.

(c) **SENSE OF CONGRESS ON PLUTONIUM POLICY.**—It is the sense of Congress that a key objective of the United States with respect to the nonproliferation of nuclear weapons should be to obtain a clear and unequivocal commitment from the Government of Russia that it will (1) cease all production and separation of weapon-grade plutonium, and (2) halt chemical separation of plutonium produced in civil nuclear power reactors.

(d) **REPORT.**—Not later than June 1, 1994, the President shall submit to Congress a report on the status of efforts by the United States to secure the commitments and achieve the objective described in subsections (b) and (c). The President shall include in the report a discussion of the status of joint efforts by the United States and Russia to replace any remaining Russian plutonium production reactors with alternative power sources or to convert such reactors to operation with alternative fuels that would permit their operation without generating weapon-grade plutonium.

SEC. 1613. NORTH KOREA AND THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS.

(a) **FINDINGS.**—The Congress finds the following:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, to which 156 states are party, is the cornerstone of the international nuclear nonproliferation regime.

(2) Any nonnuclear weapon state that is a party to the Treaty on the Non-Proliferation of Nuclear Weapons is obligated to accept International Atomic Energy Agency safeguards on all source or special fissionable material that is within its terri-

²⁴ 22 U.S.C. 5952 note.

²⁵ The President delegated functions authorized under subsections (b) and (d) to the Secretary of State in a memorandum of March 10, 1994 (59 F.R. 14079).

tory, under its jurisdiction, or carried out under its control anywhere.

(3) The International Atomic Energy Agency is permitted to conduct inspections in a nonnuclear weapon state that is a party to the Treaty at any site, whether or not declared by that state, to ensure that all source or special fissionable material in that state is under safeguards.

(4) North Korea acceded to the Treaty on the Non-Proliferation of Nuclear Weapons as a nonnuclear weapons state in December 1985.

(5) North Korea, after acceding to that Treaty, refused until 1992 to accept International Atomic Energy Agency safeguards as required under the Treaty.

(6) Inspections of North Korea's nuclear materials by the International Atomic Energy Agency suggested discrepancies in North Korea's declarations regarding special nuclear materials.

(7) North Korea has not given a scientifically satisfactory explanation for those discrepancies.

(8) North Korea refused to provide International Atomic Energy Agency inspectors with full access to two sites for the purposes of verifying its compliance with the Treaty on the Non-Proliferation of Nuclear Weapons.

(9) When called upon by the International Atomic Energy Agency to provide such full access as required by the Treaty, North Korea announced its intention to withdraw from the Treaty, effective after the required three months notice.

(10) After intensive negotiations with the United States, North Korea agreed to suspend its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons and begin consultations with the International Atomic Energy Agency on providing access to its suspect sites.

(11) In an attempt to persuade North Korea to abandon its nuclear weapons program, the United States has offered to discuss with North Korea specific incentives that could be provided for North Korea once (A) outstanding inspection issues between North Korea and the International Atomic Energy Agency are resolved, and (B) progress is made in bilateral talks between North Korea and South Korea.

(b) CONGRESSIONAL STATEMENTS.—The Congress—

(1) notes that the continued refusal of North Korea nearly eight years after ratification of the Treaty on the Non-Proliferation of Nuclear Weapons to fully accept International Atomic Energy Agency safeguards raises serious questions regarding a possible North Korean nuclear weapons program;

(2) notes that possession by North Korea of nuclear weapons (A) would threaten peace and stability in Asia, (B) would jeopardize the existing nuclear non-proliferation regime, and (C) would undermine the goal of the United States to extend the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 review conference;

(3) urges continued pressure from the President, United States allies, and the United Nations Security Council on North Korea to adhere to the Treaty and provide full access to

the International Atomic Energy Agency in the shortest time possible;

(4) urges the President, United States allies, and the United Nations Security Council to press for continued talks between North Korea and South Korea on denuclearization of the Korean peninsula;

(5) urges that no trade, financial, or other economic benefits be provided to North Korea by the United States or United States allies until North Korea has (A) provided full access to the International Atomic Energy Agency, (B) satisfactorily explained any discrepancies in its declarations of bomb-grade material, and (C) fully demonstrated that it does not have or seek a nuclear weapons capability; and

(6) calls on the President and the international community to take steps to strengthen the international nuclear non-proliferation regime.

SEC. 1614. SENSE OF CONGRESS RELATING TO THE PROLIFERATION OF SPACE LAUNCH VEHICLE TECHNOLOGIES.

(a) FINDINGS.—The Congress finds the following:

(1) The United States has joined with other nations in the Missile Technology Control Regime (MTCR), which restricts the transfer of missiles or equipment or technology that could contribute to the design, development, or production of missiles capable of delivering weapons of mass destruction.

(2) Missile technology is indistinguishable from, and interchangeable with, space launch vehicle technology.

(3) Transfers of missile technology or space launch vehicle technology cannot be safeguarded in a manner that would provide timely warning of diversion for military purposes.

(4) It has been United States policy since agreeing to the guidelines of the Missile Technology Control Regime to treat the sale or transfer of space launch vehicle technology as restrictively as the sale or transfer of missile technology.

(5) Previous congressional action on missile proliferation, notably title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1738), has explicitly supported the policy described in paragraph (4) through such actions as the statutory definition of the term “missile” to mean “a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems”.

(6) There is strong evidence that emerging national space launch programs in the Third World are not economically viable.

(7) The United States has been successful in dissuading other countries from pursuing space launch vehicle programs in part by offering to cooperate with those countries in other areas of space science and technology.

(8) The United States has successfully dissuaded other MTCR adherents, and countries who have agreed to abide by MTCR guidelines, from providing assistance to emerging national space launch programs in the Third World.

(b) STRICT INTERPRETATION OF MTCR.—The Congress supports the strict interpretation by the United States of the Missile Technology Control Regime concerning—

(1) the inability to distinguish space launch vehicle technology from missile technology under the regime; and

(2) the inability to safeguard space launch vehicle technology in a manner that would provide timely warning of the diversion of such technology to military purposes.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government and the governments of other nations adhering to the Missile Technology Control Regime should be recognized by the international community for—

(1) the success of those governments in restricting the export of space launch vehicle technology and of missile technology; and

(2) the significant contribution made by the imposition of such restrictions to reducing the proliferation of missile technology capable of being used to deliver weapons of mass destruction.

(d) DEFINITION.—For purposes of this section, the term “Missile Technology Control Regime” or “MTCR” means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

i. National Defense Authorization Act for Fiscal Year 1993

Partial text of Public Law 102-484 [H.R. 5006], 106 Stat. 2315, approved October 23, 1992; amended by Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; and by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 [H.R. 1868], enacted by reference in sec. 301 of Public Law 104-99 [H.R. 2880], 110 Stat. 26, approved January 26, 1996; enacted again as Public Law 104-107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996

AN ACT To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1993”.

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

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Subtitle C—Matters Relating to the Former Soviet Union and Eastern Europe

SEC. 1321.¹ NUCLEAR WEAPONS REDUCTION.

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

(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that “Russia and the United States do not regard each other as potential adversaries” and stated further that, “We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals”.

(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons

¹ 22 U.S.C. 5901 note.

worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to “facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery” as well as in Article VI of the Treaty, which states that “each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament”.

(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: “The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.”

(b) UNITED STATES POLICY.—It shall be the goal of the United States—

(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mutual reductions under the START Treaty, and under the Joint Understanding of June 16-17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

(4) to build on the agreement reached in the Joint Understanding of June 16-17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appropriate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on—

(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

SEC. 1322.² VOLUNTEERS INVESTING IN PEACE AND SECURITY (VIPS) PROGRAM. * * *

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²For amendment to 10 U.S.C. 1801-1805, see *Legislation on Foreign Relations Through 2001*, vol. I-B. Freestanding subsections of sec. 1322 may also be found in that volume.

Subtitle G—Other Matters

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SEC. 1364. REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDINGS.—The Congress finds that—

(1) an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict; and

(2) refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The President shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) The report shall include the following:

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report.

(B) An analysis of the specific types of mines in the individual countries assessed and the availability of technology and assets within the international community for their removal.

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts.

(D) An evaluation of the availability of technologies and assets within the United States Government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report.

(E) An evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) The report shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act.

SEC. 1365.³ LANDMINE EXPORT MORATORIUM.

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

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians

³ 22 U.S.C. 2778 note.

have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at \$980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at \$841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting non-combatants."

(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the five-year period beginning on October 23, 1992—⁴

⁴Sec. 1423(c) of Public Law 103-160 (107 Stat. 1832) struck out "For a period of one year beginning on the date of the enactment of this Act", and inserted in lieu thereof "During the four-year period beginning on October 23, 1992". Sec. 558 of Public Law 104-107 (110 Stat. 743) subsequently struck this out and inserted "During the five-year period beginning on October 23, 1992".

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(d)⁵ DEFINITION.—For purposes of this section, the term “anti-personnel landmine” means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION⁶

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TITLE XV—NONPROLIFERATION⁷

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TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992⁸

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle D—International Fissile Material and Warhead Control

SEC. 3151. NEGOTIATIONS.

(a) IN GENERAL.—The Congress urges the President to enter into negotiations with member states of the Commonwealth of Independent States, to complement ongoing and future arms reduction

⁵Sec. 1182(c)(3) of Public Law 103-160 (107 Stat. 1772) struck out “(e) DEFINITION.—” and inserted in lieu thereof “(d) DEFINITION.—”.

⁶For text of this title, the “Former Soviet Union Demilitarization Act of 1992”, see page 1651.

⁷For text of this title, the “Weapons of Mass Destruction Control Act of 1992”, see page 1760.

⁸For text of this title, the “Iran-Iraq Arms Non-Proliferation Act of 1992”, see page 1767.

negotiations and agreements, with the goal of achieving verifiable agreements in the following areas:

(1) Dismantlement of nuclear weapons.

(2) The safeguard and permanent disposal of nuclear materials.

(3) An end by the United States and member states of the Commonwealth of Independent States to the production of plutonium and highly enriched uranium for nuclear weapons.

(4) The extension of negotiations on these issues to all nations capable of producing nuclear weapons materials.

(b) EXCHANGES OF INFORMATION.—The Congress urges the President, in order to establish a data base on production capabilities of member states of the Commonwealth of Independent States and their stockpiles of fissile materials and nuclear weapons, to seek to achieve agreements with such states to reciprocally release information on—

(1) United States and the member states nuclear weapons stockpiles, including the number of warheads and bombs by type, and schedules for weapons production and dismantlement;

(2) the location, mission, and maximum annual production capacity of United States and member states facilities that are essential to the production of tritium for replenishment of that nation's tritium stockpile;

(3) the inventory of United States and member states facilities dedicated to the production of plutonium and highly enriched uranium for weapons purposes; and

(4) United States and members states stockpiles of plutonium and highly enriched uranium used for nuclear weapons.

(c) TECHNICAL WORKING GROUPS.—The Congress urges the President, in order to facilitate the achievement of agreements referred to in subsection (a), to establish with member states of the Commonwealth of Independent States and with other nations capable of producing nuclear weapons material bilateral or multilateral technical working groups to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the verification of—

(1) information on mission, location, and maximum annual production capacity of nuclear material production facilities and the size of stockpiles of plutonium and highly enriched uranium;

(2) nuclear arms reduction agreements that would include provisions requiring the verifiable dismantlement of nuclear warheads; and

(3) bilateral or multilateral agreements to halt the production of plutonium and highly enriched uranium for nuclear weapons.

(d) REPORT.—The President shall submit to the Congress, not later than March 31, 1993, a report on the progress made by the President in implementing the actions called for in subsections (a) through (c).

(e) PRODUCTION BY COMMONWEALTH OF INDEPENDENT STATES.—The Congress urges the Presidents of the member states of the Commonwealth of Independent States—

- (1) to institute a moratorium on production of plutonium and highly enriched uranium for nuclear weapons; and
- (2) to pledge to continue such moratorium for so long as the United States does not produce such materials.

SEC. 3152. AUTHORITY TO RELEASE CERTAIN RESTRICTED DATA.

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended by adding at the end the following new subsection:
* * *

SEC. 3153. DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) PROGRAM.—Of funds authorized to be appropriated in section 3104 for fiscal year 1993 for verification and control activities, \$10,000,000 shall be available only to carry out a program—

- (1) to develop and demonstrate a means for verifiable dismantlement of nuclear warheads;
- (2) to safeguard and dispose of nuclear materials; and
- (3) to develop reliable techniques and procedures for verifying a global ban on the production of fissile materials for weapons purposes.

(b) REPORT.—The Secretary shall include a report on such program in budget justification documents submitted to Congress in support of the budget of the Department of Energy for fiscal year 1994. The report shall be submitted in both classified and unclassified form.

SEC. 3154. PRODUCTION OF TRITIUM.

Nothing in this part may be construed as intending to affect the production of tritium.

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j. National Defense Authorization Act for Fiscal Years 1992 and 1993

Partial text of Public Law 102-190 [H.R. 2100], 105 Stat. 1290, approved December 5, 1991

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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PART F—OTHER MATTERS

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SEC. 153. LIMITATIONS RELATING TO REDEPLOYMENT OF MINUTEMAN III ICBMS.

(a) PROHIBITION REGARDING OPERATIONALLY DEPLOYED MISSILES.—Funds appropriated for fiscal year 1992 or any fiscal year preceding fiscal year 1992 pursuant to an authorization contained in this or any other Act may not be obligated or expended for the redeployment or transfer of operationally deployed Minuteman III intercontinental ballistic missiles from one Air Force ICBM base to another Air Force ICBM base.

(b) LIMITATION REGARDING STORED MISSILES.—No Minuteman III missile in storage may be transferred to a Minuteman II silo until the Secretary of Defense submits to Congress a plan for the restructuring of the United States strategic forces consistent with the strategic arms reduction talks (START) treaty signed by the United States and the Soviet Union. Such plan shall include—

- (1) a discussion of the force structure options that were considered in developing the plan;
- (2) for each option, the locations for the Minuteman III ICBMs and Small ICBMs and the number of each such type of missile for each location;
- (3) the cost of each such option; and
- (4) the reasons for selecting the force structure provided for in the plan.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART C—MISCELLANEOUS

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SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, \$20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).

SEC. 3141. WARHEAD DISMANTLEMENT AND MATERIAL DISPOSAL.

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

(1) On September 27, 1991, the President announced as part of a unilateral initiative designed to “enhance stability and reduce the risk of nuclear war,” that the United States should explore with the Soviet Union “joint technical cooperation on the safe and environmentally responsible storage, transportation, dismantling, and destruction of nuclear weapons”.

(2) On October 5, 1991, the President of the Soviet Union stated in response that “We hereby stress readiness to embark on a specific dialogue with the United States on the elaboration of safe and ecologically responsible technologies for the storage and transportation of nuclear warheads and nuclear charges, and to design jointly measures to enhance nuclear safety”.

(3) The President’s initiative and the Soviet response hold out the prospect of enhancing stability and reducing the risk of nuclear war.

(b) CONGRESSIONAL ENDORSEMENT.—Congress strongly endorses the initiative proposed by the President and the Soviet response and looks forward—

(1) to hearing the proposed initiatives of the President during the congressional review of the President’s proposed budget for fiscal year 1993; and

(2) to helping facilitate such initiatives through appropriate legislative measures which are requested by the President.

(c) **WARHEAD DISMANTLEMENT.**—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, \$10,000,000 shall be available to conduct a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

SEC. 3142. REPORT ON NUCLEAR WEAPONS MATTERS.

(a) **REPORT.**—Not later than April 1, 1992, the President shall submit to the congressional defense committees a report containing the following:

(1) Information on the national security requirements of each of the following items, for the period beginning on September 30, 1991, and ending on September 30, 2001:

(A) The planned stockpile of nuclear weapons.

(B) The amount of tritium necessary to maintain the planned stockpile, including—

(i) the amount of tritium available from inventory;

(ii) the amount of tritium that must be produced and when; and

(iii) an assessment of the need for and duration of operation of the K-reactor, located at the Savannah River Site in South Carolina.

(C) The feasibility and desirability of use of W-76 warheads in place of W-88 warheads in the Trident II missiles carried by Trident Fleet Ballistic Missile submarines.

(D) The need for and duration of operation of the Rocky Flats Plant facilities (other than Building 559) located at Golden, Colorado, for the purposes of—

(i) production of W-88 warheads; and

(ii) plutonium operations other than warhead production.

(E) The earliest practicable date for the commencement of operation of facilities that replace the K-reactor and the Rocky Flats Plant, including an assessment of the effect of a delay (beyond the second quarter of fiscal year 1992) in the selection of the site and the technology for the new production reactor.

(2) A plan for assistance to the workforce at Rocky Flats and the K-reactor, including retraining for new employment opportunities at the sites, that could be provided in the event that either facility ceases production.

(b) **FORM OF REPORT.**—The report required by subsection (a) shall be submitted in classified and unclassified form.

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k. National Defense Authorization Act for Fiscal Year 1991

**Partial text of Public Law 101-510 [H.R. 4739], 104 Stat. 1485 at 1689,
approved November 5, 1990**

AN ACT To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

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TITLE XIV—GENERAL PROVISIONS

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PART D—ARMS CONTROL MATTERS

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SEC. 1441. SENSE OF CONGRESS ON ADDITIONAL NUCLEAR RISK REDUCTION MEASURES

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

(1) On June 1, 1990, the President of the United States and the President of the Soviet Union signed a document entitled “Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability”.

(2) In that document, the two nations pledged to pursue additional confidence-building and predictability measures “that would reduce the possibility of an outbreak of nuclear war as a result of accident, miscalculation, terrorism, or unexpected technological breakthrough, and would prevent possible incidents between them”.

(3) As a result of the recent increase in ethnic, national, economic, and political tensions within the Soviet Union, concern has heightened regarding the possible unauthorized or accidental use of Soviet nuclear weapons.

(4) It has been four years since the Department of Defense conducted a comprehensive review of its nuclear control procedures and failsafe mechanisms.

(5) The Joint Chiefs of Staff, in its 1990 Joint Military Net Assessment, concluded that with the recent changes in the global security environment “the risk of nuclear deterrence failing is assessed to be low and at this moment to be decreasing”.

(6) While Congress is concerned about continued strategic offensive and defensive modernization by the Soviet Union and the unpredictable status of the domestic situation in the Soviet Union, at this stage the lessened prospects that nuclear weap-

ons of the United States might have to be employed may afford an opportunity to reconsider past reluctance to use certain positive control measures, such as the installation of permissive action links (PALs) on nuclear weapons deployed at sea by the United States and the installation of post-launch destruct mechanisms on intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States, as long as appropriate security measures can be developed to protect the integrity of such destruct mechanisms.

(7) On September 15, 1987, the United States and the Soviet Union agreed to establish Nuclear Risk Reduction Centers (NRRCs) in Washington and Moscow.

(8) The NRRCs have made a useful contribution to lowering the risks of accidental or inadvertent nuclear war and are capable of taking on expanded roles.

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

(1) that the President of the United States and the President of the Union of Soviet Socialist Republics are to be commended for their June 1, 1990, joint statement to pursue additional nuclear confidence-building measures; and

(2) that, in keeping with that joint statement, the President—

(A) should invite the Soviet Union to join with the United States in conducting separate but parallel, comprehensive reviews of each nation's own nuclear control procedures and failsafe mechanisms; and

(B) should propose to the Soviet Union that representatives of the two nations engage in discussions with the objective of agreeing on additional roles and functions that could be assigned to the Nuclear Risk Reduction Centers to further lessen the risks of the outbreak of nuclear war as the result of misinterpretation, miscalculation, or accident.

(c) REPORT ON ADDITIONAL MEASURES.—Not later than March 1, 1991, the President shall submit to Congress a report (in both classified and unclassified form) assessing additional nuclear risk reduction measures which could be implemented pursuant to the joint statement of June 1, 1990, referred to in subsection (b), including the following:

(1) Assigning to the Nuclear Risk Reduction Centers (NRRCs) such expanded roles as the following:

(A) Serving as a forum for discussions between the two nations on responding to possible nuclear terrorism.

(B) Transmitting notifications that may be required under future arms control treaties.

(C) Transmitting non-urgent notifications and information requests required under Article 5 of the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States and the Union of Soviet Socialist Republics.

(D) Providing a forum for discussions between the United States and the Soviet Union on restricting nuclear, chemical, and missile proliferation.

- (E) Serving as a meeting place for high-level military discussions on nuclear doctrines, forces and activities, and regional security concerns.
- (2) Installation of post-launch destruct mechanisms on all intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States.
- (3) Installation by the United States of permissive action links (PALs) on all nuclear weapons at sea.

SEC. 1442. START AND STRATEGIC MODERNIZATION

- (a) FINDINGS.—The Congress makes the following findings:
- (1) The United States and the Soviet Union are engaged in the Strategic Arms Reduction Talks (START) in Geneva.
- (2) In the Joint Statement on the Treaty on Strategic Offensive Arms signed in June 1990, the two sides reaffirmed their determination to have a START agreement completed and ready for signature by the end of 1990.
- (3) Under the provisions of a START agreement, both sides will carry out significant reductions in strategic offensive arms.
- (4) In the Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability, the United States and the Soviet Union agreed to pursue new talks on strategic offensive arms, and on the relationship between strategic offensive and defensive arms.
- (5) The objectives of these negotiations will be to reduce further the risk of outbreak of war, particularly nuclear war, and to ensure strategic stability, transparency and predictability through further stabilizing reductions in the strategic arsenals of both countries.
- (6) The President's effort to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.
- (7) The Soviet Union has maintained a robust strategic modernization program throughout the course of the START negotiations which continues today.
- (b) It is the sense of the Congress that—
- (1) the Congress fully supports United States efforts to enhance strategic stability; and
- (2) the United States should pursue stabilizing strategic arms reduction agreements while maintaining a vigorous research and development and modernization program for United States strategic forces as required for a prudent defense posture.

SEC. 1443. STRATEGIC ARMS REDUCTION TALKS AGREEMENT

- (a) SENSE OF CONGRESS.—It is the sense of the Congress that the President, before concluding an agreement in the Strategic Arms Reduction Talks, should provide to Congress—
- (1) a report on whether the SS-23 INF missiles of Soviet manufacture, which the Soviet Union has confirmed have been stationed in the territory of the former German Democratic Republic and in the territories of Czechoslovakia and Bulgaria, constitute a violation of the INF Treaty or constitute deception

in the INF negotiations, and whether the United States has reliable assurances that those missiles will be destroyed; and

(2) a report on whether the Krasnoyarsk radar, which the Foreign Minister of the Soviet Union admitted is a clear violation of the 1972 ABM Treaty, has been verifiably dismantled in accordance with United States criteria.

FORM OF REPORTS.—The reports under paragraphs (1) and (2) of subsection (a) should be submitted in both classified and unclassified form.

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TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701. Policy.

Sec. 1702. Amendment to the Export Administration Act of 1979.

Sec. 1703. Amendment to the Arms Export Control Act of 1979.

Sec. 1704. Report on missile proliferation.¹

SEC. 1701.² POLICY

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime (“MTCR”) and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

¹Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

²50 U.S.C. app. 2402 note.

SEC. 1702.³ AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979 * * *

SEC. 1703.⁴ AMENDMENT TO THE ARMS EXPORT CONTROL ACT * * *

SEC. 1704.⁵ * * * [Repealed—1991]

³For text of amendment to sec. 6 and the addition of new sec. 11B of the Export Administration Act of 1979, see *Legislation on Foreign Relations Through 2000*, vol. III, sec. J.

⁴Sec. 1703 added chapter 7, secs. 71-74 to the Arms Export Control Act. For text, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁵Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

1. National Defense Authorization Act for Fiscal Years 1990 and 1991

Partial text of Public Law 101-189 [H.R. 2461], 103 Stat. 1352 at 1539, approved November 29, 1989

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

* * * * *

TITLE X—MATTERS RELATING TO ARMS CONTROL

SEC. 1001. PRESIDENTIAL REPORT ON POSSIBLE EFFECTS OF A STRATEGIC ARMS REDUCTION AGREEMENT ON TRIDENT PROGRAM

(a) REPORT.—Not later than April 1, 1990, the President shall submit to Congress a comprehensive report on the Trident program under a possible Strategic Arms Reduction Talks (START) agreement. The report shall address the following issues:

(1) The objective for the size of the Trident submarine force fleet both with and without a START agreement.

(2) The implications for United States strategic force posture under a START agreement of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions, as follows:

(A) All such warheads are accountable under START limits.

(B) The warheads on one-to-three Trident submarines are not accountable under START limits.

(3) A net assessment of the implications for United States security of a START agreement that allows the Soviet Union as well as the United States to have an equivalent number of warheads on submarines that are not accountable under START limits.

(4) The technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those submarines already built, those under construction, and those yet to be built.

(5) The verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The President may waive the requirements of subsection (a) if he has signed a START agreement or other strategic

arms reduction agreement with the Soviet Union before the date by which the report is otherwise required to be submitted.

SEC. 1002. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs UNDER A START AGREEMENT

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

(1) The United States must have confidence that any agreement achieved through the Strategic Arms Limitation Talks (START) in Geneva will be effectively verifiable.

(2) The position of the United States at the START negotiations, from 1985 until September 1989, was to ban the deployment of mobile intercontinental ballistic missiles (ICBMs) under a START regime unless an effective verification regime could be identified and implemented. In September 1989, the United States announced that it was withdrawing its proposal for the ban of mobile ICBMs, contingent upon Congress providing funds for mobile ICBMs to be deployed by the United States.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS–24 and the SS–25.

(4) The President conducted a strategic review during the period between January 20, 1989, and the resumption of the START negotiations on June 15, 1989.

(b) PRESIDENTIAL REPORT.—Not later than March 31, 1990, the President shall submit to Congress a report (in classified and unclassified form) describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to the capability of the United States to monitor and verify a START agreement which allows mobile ICBMs. The report shall include the following:

(1) A description of each study conducted by United States Government agencies during the strategic review referred to in subsection (a)(4) to determine the ability of the United States to verify limitations on mobile ICBMs of the Soviet Union under a START agreement, including a summary of the conclusions reached under each such study.

(2) A description of any so-called “Red Team” study conducted between March 1985 and August 1989 with regard to the existence of mobile ICBMs under a START regime, including a summary of the conclusions reached under each such study.

(3) A description of each study conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various options relating to the verification of mobile ICBMs (such options to include the option known as “tagging” and the establishment of designated deployment areas), including a summary of the conclusions reached under each such study.

SEC. 1003. SENSE OF CONGRESS ON START TALKS

Congress hereby reaffirms the sense of Congress expressed in the second session of the 100th Congress (in section 902 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law

100–456; 102 Stat. 2031))¹ that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the Strategic Arms Reduction Talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force; and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 1004. REPORT ON ASYMMETRIES IN CAPABILITIES OF UNITED STATES AND SOVIET UNION TO PRODUCE AND DEPLOY BALLISTIC MISSILE DEFENSE SYSTEMS

(a) **STUDY REQUIRED.**—The Secretary of Defense shall conduct a study on the asymmetry in the near-term capabilities of the United States and the Soviet Union to deploy ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall be conducted in coordination with the Director of Central Intelligence.

(b) **MATTERS TO BE INCLUDED IN STUDY.**—Subject to subsection (e), the study shall include the following:

(1) An assessment of the likelihood of a breakout by the Soviet Union from the 1972 ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the capability of the Soviet Union to exploit a situation in which the limitations of the 1972 ABM Treaty do not apply, including a detailed assessment of the capabilities of the Soviet Union to produce—

(A) space-based anti-ballistic missile (ABM) launchers and interceptors;

(B) ground-based ABM launchers and interceptors; and

(C) the infrastructure for ABM battle management command, control, and communications.

(3) An assessment of the production base of the United States for production of the elements specified in subparagraphs (A), (B), and (C) of paragraph (2), including an estimate of how quickly the United States could respond to a breakout by the Soviet Union in each of those elements.

(c) **STUDY TO ASSESS POSSIBLE UNITED STATES RESPONSE TO SOVIET BREAKOUT.**—(1) The study shall also include an assessment of the immediate and long-term actions that could be taken by the United States to respond to redress any asymmetry in the potential of the United States and the Soviet Union to exploit a breakout by the Soviet Union from the 1972 ABM Treaty.

(2) That assessment shall include an evaluation of the actions that would be necessary to support—

(A) a one-site ABM system (as allowed under the Treaty); or

(B) an expanded ABM system unconstrained by the limitations of the 1972 ABM Treaty.

¹Sec. 902 of Public Law 100–456 stated a sense of the Congress on START talks identical to par. (1) and (2).

(3) Such assessment shall specifically address the required actions, and the costs associated with those actions, to support both the one-site ABM system and the expanded ABM system to be evaluated under paragraph (2), including (A) the upgrading and expansion of the existing United States radar network, (B) the use of existing inactive ABM components at Grand Forks, North Dakota, and (C) the development and deployment of other required components.

(d) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the study under subsection (a). The report shall be submitted in both classified and unclassified form. The report shall specify the results of the study under subsection (a), including each matter required to be included in the study under this section.

(e) WAIVER OF REQUIRED STUDY FEATURE.—The study under subsection (a) need not include the assessment referred to in subsection (b)(1) if, before the date of the submission of the report required by subsection (d) with respect to the study, the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2034), regarding antiballistic missile capabilities and activities of the Soviet Union (such report having been required by subsection (c) of such section to be submitted not later than January 1, 1989).

(f) 1972 ABM TREATY DEFINED.—For purposes of this section, the term “1972 ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 1005. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

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

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidental.

(2) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(3) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(4) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(5) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) REAFFIRMATION OF SENSE OF CONGRESS.—Congress hereby reaffirms the sense of Congress expressed in section 224(b) of the

National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1942)² stating—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) SUBMISSION OF PREVIOUSLY REQUIRED REPORT.—The Secretary of Defense shall submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system that was required by section 224(c) of that Act to be submitted not later than March 1, 1989.

SEC. 1006. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING THE KRASNOYARSK RADAR

(a) REAFFIRMATION OF PRIOR FINDINGS.—Congress hereby reaffirms the findings made with respect to the large phased-array radar of the Soviet Union known as the “Krasnoyarsk radar” in paragraphs (1) through (6) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135), as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

²Sec. 224(b) of Public Law 100–456, stated the sense of the Congress identical to text in par. (1) and (2).

(b) **FURTHER FINDINGS.**—In addition to the findings referred to in subsection (a), Congress finds with respect to the Krasnoyarsk radar that—

(1) in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty;

(2) until the meeting between the Secretary of State and the Foreign Minister of the Soviet Union at Jackson Hole, Wyoming, in September 1989, the Soviet Union had rejected demands by the United States that it dismantle that radar without conditions, but the joint statement issued following that meeting states that the government of the Soviet Union “had decided to completely dismantle the Krasnoyarsk radar station”; and

(3) on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty.

(c) **SENSE OF CONGRESS.**—It is the sense of Congress—

(1) that the Soviet Union should dismantle the Krasnoyarsk radar (as announced in the joint statement referred to in subsection (b)(2)) expeditiously and without conditions; and

(2) that until such radar is completely dismantled it will remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

SEC. 1007. SENSE OF CONGRESS CONCERNING EXPLORING THE FEASIBILITY OF TREATY LIMITATIONS ON WEAPONS CAPABLE OF THREATENING MILITARY SATELLITES

It is the sense of Congress that, as soon as practicable, the President should explore the feasibility of a mutual and verifiable treaty with the Soviet Union which places the strictest possible limitations, consistent with the security interests of the United States and its allies, on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

SEC. 1008. REPORT ON SATELLITE SURVIVABILITY

(a) **REQUIREMENT FOR REPORT.**—The President shall submit to Congress a comprehensive report on United States antisatellite weapon activities and the survivability of United States satellites against current and potential antisatellite weapons deployed by the Soviet Union. The report shall be submitted by March 15, 1990, and shall be submitted in both classified and unclassified versions.

(b) **MATTERS TO BE INCLUDED IN REPORT.**—The report required by subsection (a) shall include the following:

(1) Detailed information (including funding profiles, expected capabilities, and schedules for development, testing, and deployment) on all United States antisatellite weapon programs.

(2) An analysis of the antisatellite potential of the anticipated deployed version of each Strategic Defense Initiative technology capable of damaging or destroying objects in space.

(3) An assessment of the threat that would be posed to satellites of the United States if the technologies described in paragraphs (1) and (2) were to be tested by the Soviet Union, at levels of performance equal to those intended by the United States, and developed into weapons for damaging or destroying objects in space.

(4) A review of arms control options and satellite survivability measures (including cost data) that would improve the survivability of current and future United States military satellite systems.

(5) A review of alternative means of providing the support to military forces of the United States that is currently provided by United States satellites if those satellites become vulnerable to attack as the result of the deployment by the Soviet Union of antisatellite weapons with the levels of performance contemplated in paragraph (3).

SEC. 1009. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTI-SATELLITE CAPABILITIES

(a) **REPORT BY THE PRESIDENT.**—The President shall submit to Congress a comprehensive report regarding the desirability of an agreement with the Soviet Union to impose limitations on antisatellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all antisatellite weapons would be verifiable and, if so, whether such a ban or other limitation would be in the national interest of the United States.

(b) **MATTERS RELATING TO VERIFICATION.**—In making the determination referred to in subsection (a), the President shall—

(1) consider the extent to which on-site inspection measures (as well as national technical means for verification) can increase confidence in the ability of the United States to monitor and verify various agreed-upon antisatellite limitations; and

(2) examine various arms control possibilities, including—

(A) a total ban on antisatellite capability by both the United States and the Soviet Union;

(B) a ban or other limitation on antisatellite weapons with the potential to attack satellites at altitudes above the Van Allen belt; and

(C) a ban or other limitation on antisatellite weapons that operate only in low-Earth orbit.

(c) **MATTERS RELATING TO DETERRENCE AND WAR FIGHTING REQUIREMENTS.**—In the report required by subsection (a), the President shall also address the following:

(1) The contribution an antisatellite capability of the United States can make toward enhancing deterrence.

(2) The contribution an antisatellite capability can make toward meeting the war fighting requirements of the United States and how such a capability enhances force survivability.

(3) The extent to which (based upon a net assessment) the United States would be better able to meet its war fighting requirements and deterrence objectives if—

(A) the Soviet Union possessed an antisatellite capability and the United States did not possess an antisatellite capability;

(B) neither the United States nor the Soviet Union possessed an antisatellite capability;

(C) the United States and the Soviet Union both possessed a limited antisatellite capability;

(D) the United States and the Soviet Union both possessed an unrestricted antisatellite capability.

(d) **SUBMISSION OF REPORT.**—The report required by subsection (a) shall be submitted to Congress not later than May 1, 1990, and shall be submitted in both classified and unclassified versions.

SEC. 1010. REPORT ON VERIFICATION OF COMPLIANCE WITH AGREEMENTS TO LIMIT NUCLEAR TESTING

(a) **REPORT REQUIREMENT.**—The Secretary of Energy shall prepare a report, in classified form, assessing the possible effects on the abilities of the United States to verify compliance by the Soviet Union with any agreement (presently in effect or under negotiation) to limit testing of nuclear devices should any information or data now obtained under any cooperative agreement with any controlled country and used to verify the degree of such compliance be curtailed or become unavailable due to a change in, or severing of, diplomatic relations with such a controlled country. The report shall assess, in particular, whether compliance by the Soviet Union with any such agreement to limit testing of nuclear devices can be fully and reliably verified should such a cooperative agreement be curtailed or terminated. The report shall be prepared in consultation with the Secretary of Defense.

(b) **SUBMISSION OF REPORT.**—The report prepared under subsection (a) shall be submitted to Congress not later than six months after the date of the enactment of this Act.

(c) **CONTROLLED COUNTRY DEFINITION.**—For purposes of this section, the term “controlled country” means a country listed in section 620(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)).

SEC. 1011. SENSE OF CONGRESS ON ARMS CONTROL NEGOTIATIONS AND UNITED STATES MODERNIZATION POLICY

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

(1) The United States is currently engaged in a wide range of arms control negotiations in the areas of strategic nuclear forces, strategic defenses, conventional force levels, chemical weapons, and security and confidence building measures.

(2) On May 30, 1989, the North Atlantic Treaty Organization issued a “Comprehensive Concept on Arms Control and Disarmament” which placed a special emphasis on arms control as a means of enhancing security and stability in Europe.

(3) The President has stated that arms control is one of the highest priorities of the United States in the area of security and foreign policy and that the United States will pursue a dynamic, active arms control dialogue with the Soviet Union and the other Warsaw Pact countries.

(4) The United States has already made major proposals at the Conventional Forces in Europe Talks, convened on March 6, 1989, which would result in a dramatic reduction in Soviet and Warsaw Pact conventional forces.

(5) The President, on September 25, 1989, made a major new arms control proposal in the area of chemical weapons.

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

(1) the President is to be commended for pursuing a wide array of arms control initiatives in the context of a multitude

of arms control negotiations, all of which have been designed to enhance global security and result in meaningful, militarily significant reductions in military forces;

(2) Congress fully supports the arms control efforts of the President and encourages the government of the Soviet Union to respond favorably to United States arms control proposals which would require the Soviet Union to reduce its massive quantitative superiority in military weaponry;

(3) the President should seek arms control agreements that would not limit the United States to levels of forces inferior to the limits provided for the Soviet Union; and

(4) the President's efforts to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(c) **REAFFIRMATION OF PROHIBITION RELATING TO ENTERING INTO CERTAIN ARMS CONTROL AGREEMENTS.**—Congress hereby reaffirms the proviso in the first sentence of section 33 of the Arms Control and Disarmament Act (22 U.S.C. 2573) that no action may be taken under that Act or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress.

SEC. 1012. REPORT ON EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors.

SEC. 1013. SENSE OF CONGRESS ON CHEMICAL WEAPONS NEGOTIATIONS

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

(1) The proliferation of chemical weapons and the repeated use of chemical weapons represent a grave threat to the security and interests of the United States.

(2) The most comprehensive and effective response to the threat posed by the proliferation of chemical weapons is the completion of an effectively verifiable treaty banning the production and stockpiling of all chemical weapons.

(3) The successful completion of a treaty banning all chemical weapons through the negotiations at the multinational United Nations Conference on Disarmament in Geneva should be one of the highest arms control priorities of the United States.

(b) **SENSE OF CONGRESS.**—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the President should continue ongoing efforts to establish an agreement with the Soviet Union and other countries establishing a mutual and effectively verifiable agreement to stop the production, proliferation, and stockpiling of all lethal chemical weapons; and

(2) the United States negotiators in Geneva should take concrete steps to initiate proposals regarding the composition of the verification regime for such an agreement that will meet the legitimate concerns of other parties while addressing the security concerns of the United States.

SEC. 1014. UNITED STATES PROGRAM FOR ON-SITE INSPECTIONS UNDER ARMS CONTROL AGREEMENTS

(a) FINDINGS CONCERNING ON-SITE INSPECTION PERSONNEL.—Congress makes the following findings:

(1) The United States is currently engaged in multilateral and bilateral negotiations seeking to achieve treaties or agreements to reduce or eliminate various types of military weapons and to make certain reductions in military personnel levels. These negotiations include negotiations for (A) reductions in strategic forces, conventional armaments, and military personnel levels, (B) regimes for monitoring nuclear testing, and (C) the complete elimination of chemical weapons.

(2) Requirements for monitoring these possible treaties or agreements will be extensive and will place severe stress on the monitoring capabilities of United States national technical means.

(3) In the case of the INF Treaty, the United States and the Soviet Union negotiated, and are currently using, on-site inspection procedures to complement and support monitoring by national technical means. Similar on-site inspection procedures are being negotiated for inclusion in possible future treaties and agreements referred to in paragraph (1).

(4) During initial implementation of the provisions of the INF Treaty, the United States was not fully prepared for the personnel requirements for the conduct of on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any strategic arms reduction treaty or agreement will be far more extensive than those for the INF Treaty. The number of locations within the Soviet Union that would possibly be subject to on-site inspections under a START agreement have been estimated to be approximately 2,500 (compared to 120 for the INF Treaty).

(5) On-site inspection procedures are likely to be an integral part of any future arms control treaty or agreement.

(6) Personnel requirements will be extensive for such on-site inspection procedures, both in terms of numbers of personnel and technical and linguistic skills. Since verification requirements for the INF Treaty are already placing severe stress on current personnel resources, the requirements for verification under START and other possible future treaties and agreements may quickly exceed the current number of verification personnel having necessary technical and language skills.

(7) There is a clear need for a database of the names of individuals who are members of the Armed Forces or civilian employees of the United States Government, or of other citizens and nationals of the United States, who are qualified (by reason of technical or language skills) to participate in on-site inspections under an arms control treaty or agreement.

(8) The organization best suited to establish such a database is the On-Site Inspection Agency (OSIA) of the Department of Defense, which was created by the President to implement (for the United States) the on-site inspection provisions of the INF Treaty.

(b) STATUS OF THE OSIA.—(1) Congress finds that—

(A) the Director of the OSIA (currently a brigadier general of the Army) is appointed by the Secretary of Defense with the concurrence of the Secretary of State and the approval of the President;

(B) the Secretary of Defense provides to the Director appropriate policy guidance formulated by the interagency arms control mechanism established by the President;

(C) most of the personnel of the OSIA are members of the Armed Forces (who are trained and paid by the military departments within the Department of Defense) and include linguists, weapons specialists, and foreign area specialists;

(D) the Department of Defense provides the OSIA with substantially all of its administrative and logistic support (including military air transportation for inspections in the Soviet Union and Eastern Europe); and

(E) the facilities in Europe and the United States at which OSIA personnel escort personnel of the Soviet Union conducting inspections under the on-site inspection terms of the INF Treaty are under the jurisdiction of the Department of Defense (or under the jurisdiction of entities that are contractors with the Department of Defense).

(2) In light of the findings in paragraph (1) and the report submitted pursuant to section 909 of Public Law 100–456 entitled “Report to the Congress on U.S. Monitoring and Verification Activities Related to the INF Treaty” (submitted on July 27, 1989), Congress hereby determines that by locating the On-Site Inspection Agency within the Department of Defense for the purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty with existing organizational activities of that Department, the President has been able to ensure that sensitive national security assets are protected and that obligations of the United States under that treaty are fulfilled in an efficient and cost-effective manner.

(c) ESTABLISHMENT OF PERSONNEL DATABASE.—(1) In light of the findings in subsection (a), the Director of the On-Site Inspection Agency shall establish a database consisting of the names of individuals who could be assigned or detailed (in the case of Government personnel) or employed (in the case of non-Government personnel) to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

(2) The database should be composed of the names of individuals with skills (including linguistic and technical skills) necessary for the conduct of on-site inspections.

(d) INF TREATY DEFINED.—For purposes of this section, the term “INF Treaty” means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their In-

intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

* * * * *

m. National Defense Authorization Act, Fiscal Year 1989

**Partial text of Public Law 100-456 [H.R. 4481], 102 Stat. 1918, approved
September 29, 1988**

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

* * * * *

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

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

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 902.¹ SENSE OF CONGRESS ON START TALKS

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution “to raise and support Armies” and “provide and maintain Navies” and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

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

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the “ABM Treaty” or the “Treaty”) in Article XIV, Paragraph 2, reads as follows: “Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.”

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

¹Sec. 1003 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1541), reaffirmed this sense of the Congress.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place.

SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a)² * * *

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

SEC. 906.³ ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) A description of the nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the effect that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms

²Sec. 905(a) amended sec. 1002 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 22 U.S.C. 2592a).

³22 U.S.C. 2592b.

control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

(b) **ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.**—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

(c)⁴ **REPORT.**—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

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

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

⁴ Sec. 1004(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1542) waived a requirement for a study outlined in sec. 1004(a) of that Act, if “before the date of submission of the report required by [subsection (d) of that Act] * * * the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 * * * regarding antiballistic missile capabilities and activities of the Soviet Union * * *”.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) **PRESIDENTIAL REPORT.**—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

(c) **FORM OF REPORT.**—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 909. ON-SITE INSPECTION AGENCY

(a) **REPORT REQUIREMENTS.**—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives⁵ and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections (whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the re-

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

port has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

- (A) The Secretary of Defense.
- (B) The Secretary of State.
- (C) The Director of Central Intelligence.
- (D) The Director of the United States Arms Control and Disarmament Agency.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall—

- (1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,
- (2) evaluate the effectiveness with which these functions have been implemented, and
- (3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) INF TREATY DEFINED.—For purposes of subsection (b), the term “INF Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) BUDGET REQUESTS.—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year.

SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) REPORT.—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency.

(b) FINDINGS AND RECOMMENDATIONS.—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

- (1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.
- (2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

* * * * *

n. National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100-180 [H.R.1748], 100 Stat. 1019, approved December 4, 1987; as amended by Public Law 101-189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

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

* * * * *

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. MISSILE TECHNOLOGY CONTROL REGIME

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded an agreement known as the Missile Technology Control Regime, for the purpose of limiting the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

(c) REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.—(1) Not later than 60 days after the date of enactment of the National Defense Authorization Act

for Fiscal Year 1990,¹ the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives² a report—

(A) identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform these functions; and

(C) assessing the adequacy of these resources for the effective performance of these responsibilities.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following responsibilities of the Department under the regime:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to the regime.

SEC. 902.³ SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying an anti-ballistic missile system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the 1972 Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk,

¹Sec. 1639(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1612; approved November 29, 1989), struck out “February 1, 1988” and inserted “60 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1990”.

²Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

³Sec. 1003 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543), reaffirmed this sense of the Congress.

of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 903. REPORT ON COMPLIANCE BY THE SOVIET UNION WITH THRESHOLD TEST BAN TREATY

(a) IN GENERAL.—The President shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered non-violations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 904. CONGRESSIONAL FINDINGS AND DECLARATIONS CONCERNING ARMS CONTROL NEGOTIATIONS

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

(1) The United States and the Soviet Union are currently engaged in negotiations to conclude a treaty on intermediate-range nuclear forces (INF) and are continuing serious negotiations on other issues of vital importance to the national security of the United States.

(2) The current negotiations, which reflect delicate compromises on both sides, are a culmination of years of detailed and complex negotiations in which the negotiators for the United States have been pursuing a policy consistently advocated by the past two Presidents regarding nuclear arms control in the European theater.

(3) While recognizing fully that the President, under clause 2, section 2, article II of the Constitution, has the power, by and with the advice and consent of the Senate, to make treaties, the Congress also recognizes the special responsibility conferred by the Founding Fathers on the Senate in requiring that it give its advice and consent before a treaty may be ratified by the United States and that in carrying out this responsibility the Senate is accountable to the people of the United States and has a duty to ensure that no treaty is ratified which would be detrimental to the welfare and security of the United States.

(4) In recognition of this responsibility, the Senate has established a special continuing oversight body, the Arms Control Observer Group, which over the last two and one-half years has functioned to provide advice and counsel to the President and his negotiators, when appropriate, on a continuing basis during the course of the negotiations to achieve an INF treaty.

(5) The Senate and the President both have a role under the Constitution in the making of treaties and Congress as a whole

has a role under the Constitution in the regulating of expenditures, including expenditures for weapons systems that may be the subject of treaty negotiations.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) fully supports the efforts of the President to negotiate stabilizing, equitable, and verifiable arms reduction treaties with the Soviet Union;

(2) endorses the principle of mutuality and reciprocity in arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union; and

(3) urges the President to take care that no provision is agreed to in those negotiations that would be harmful to the security of the United States or its allies and friends.

(c) DECLARATION OF THE SENATE.—The Senate declares that it will reserve judgment regarding the approval of any arms control treaty until it has conducted a thorough examination of the provisions of the treaty and has assured itself that those provisions—

(1) are effectively verifiable; and

(2) serve to enhance the strength and security of the United States and its allies and friends.

SEC. 905. REPORT ON MILITARY CONSEQUENCES OF THE ELIMINATION OF BALLISTIC MISSILES

(a) REPORT REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit to the Committees on Armed Services of the Senate and House of Representatives⁴ a report examining the military consequences of any arms control agreement between the United States and the Soviet Union that would provide for the elimination of all strategic ballistic missiles of the United States and the Soviet Union.

(b) MATTERS TO BE DISCUSSED.—Such report shall be submitted in both classified and unclassified form and shall include a discussion of the strategic, budgetary, and force structure implications of an agreement described in subsection (a) for—

(1) conventional defenses of the United States and its allies in Europe, the Far East, and other regions vital to the national security of the United States;

(2) tactical nuclear deterrence by the United States in those regions;

(3) strategic offensive retaliatory systems of the United States that would not be affected by such an agreement, including bomber forces and cruise missiles;

(4) air defenses of the United States needed to counter bomber forces and cruise missiles of the Soviet Union;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) any new programs which the Chairman of the Joint Chiefs of Staff may consider necessary in order for the United

⁴Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

States to protect its national security interests in light of the relative advantage conferred by such an agreement on other nations possessing nuclear weapons whose strategic ballistic missile forces would not be affected by the agreement.

SEC. 906. REPORT ON IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS

Not later than June 30, 1988, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified versions, containing the following:

(1) A description of the quantitative and qualitative implications for the strategic modernization program of the United States of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva, giving special, but not exclusive, attention to the implications of such position for the Trident SSBN program, the rail-garrison Peacekeeper program, and the small intercontinental ballistic missile ("Midgetman") program.

(2) A description of the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) on United States force modernization policy and arms control policy.

SEC. 907. SUPPORT FOR NUCLEAR RISK REDUCTION CENTERS

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust of both parties to the agreement and lead to an expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis prevention and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

* * * * *

o. Department of Defense Authorization Act, 1987

**Partial Text of Public Law 99-661 [S.2368], 100 Stat. 3816, approved
November 14, 1986**

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes

*Be it enacted by the State and House of Representatives of the
United States of American in Congress assembled,*

* * * * *

TITLE X—ARMS CONTROL MATTERS

SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

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

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976,

and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) MATTERS TO BE CONSIDERED.—The assessment required by subsection (a) shall focus on what the likely Soviet military responsees would be during the period between 1987 and 1996. In making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any ex-

pansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) REPORT REQUIREMENTS.—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e)¹ RESTRICTION ON OBLIGATION OF FUNDS.—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS

(a) CONGRESSIONAL STATEMENTS.—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

(2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

¹ As enrolled; there is no subsec. (d).

(b) SENSE OF CONGRESS.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

* * * * *

p. Department of Defense Authorization Act, 1986

Partial text of Public Law 99-145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99-190 [Further Continuing Appropriations, 1985; H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; and by Public Law 100-456 [National Defense Authorization Act for Fiscal Year 1989, H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

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

* * * * *

TITLE X—MATTERS RELATING TO ARMS CONTROL

SEC. 1001. POLICY ON COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

- (a) SENSE OF CONGRESS.—It is the sense of Congress that—
- (1) the United States should vigorously pursue with the Soviet Union the resolution of concerns of the United States over Soviet compliance with existing strategic arms control agreements and should seek corrective actions through confidential diplomatic channels, including, if appropriate, the Standing Consultative Commission and the Nuclear and Space Arms negotiations;
 - (2) the Soviet Union should take positive steps to resolve the compliance concerns of the United States about existing strategic offensive arms agreements in order to maintain the integrity of those agreements and to strengthen the positive environment necessary for the successful negotiation of a new strategic offensive arms agreement;
 - (3) the United States should continue, through December 31, 1986, to refrain from undercutting the provisions of existing strategic offensive arms agreements—
 - (A)(i) to the extent that the Soviet Union refrains from undercutting those provisions; and
 - (ii) if the Soviet Union actively pursues arms reduction agreements in the Nuclear and Space Arms negotiations;or
 - (B) until a new strategic offensive arms agreement between the United States and the Soviet Union is concluded;
 - (4) the President—
 - (A) should carefully consider the impact of any change in the current policy of the United States regarding existing

strategic offensive arms agreements on the long-term security interests of the United States and its allies; and

(B) should consult with Congress before making any change in that policy; and

(5) any decision by the President to continue the existing United States no-undercut policy beyond December 31, 1986, should be a matter for consultation between the President and Congress and for subsequent review and debate by Congress.

(b) REQUIREMENT FOR REPORT.—Not later than February 1, 1986, the President shall submit to Congress a report containing the following:

(1) A range of projections and comparisons, on a year-by-year basis, of United States and Soviet strategic weapons dismantlements that would be required over the next five years if the United States and the Soviet Union were to adhere to a policy of not undercutting existing strategic arms control agreements.

(2) A range of projections and comparisons, on a year-by-year basis, of likely United States and Soviet strategic offensive force inventories over the next five years assuming a termination at the end of 1985 in the current no-undercut policy.

(3) An assessment of the possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy.

(4) Recommendations regarding the future of United States interim restraint policy.

(c) PROPOSAL OF MEASURES.—If the President finds and reports to Congress that—

(1) the Soviet Union has violated the provisions of any strategic arms agreement; and

(2) such violations impair or threaten the security of the United States,

the President may propose to Congress such measures as he considers necessary to protect the security of the United States.

(d) SCOPE OF POLICY.—Nothing in this section shall be construed—

(1) to restrain or inhibit the constitutional powers of the President;

(2) to endorse unilateral United States compliance with existing strategic arms agreements;

(3) as prohibiting the United States from carrying out proportionate responses to Soviet undercutting of strategic arms provisions;

(4) as prohibiting or delaying the development, flight testing, or deployment of the small intercontinental ballistic missile (SICM)² as authorized by law; or

(5) as establishing a precedent to continue the no-undercut policy beyond December 31, 1986.

²Should read "SICBM".

SEC. 1002.³ ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

(3) A net assessment of the aggregate military significance of all such violations.

(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.

SEC. 1003. STUDY OF ARMS CONTROL VERIFICATION CAPABILITIES

(a) INTERAGENCY STUDY.—The President shall provide for an interagency study with the purpose of determining possible avenues for cooperation between the United States and the Soviet Union in the development of capabilities not subject to national security restrictions for verification of compliance with arms control agreements.

(1) limited exchanges of data and scientific personnel; and

(2) the conduct of a joint technological effort in the area of seismic monitoring.

(b) AGENCIES INCLUDED.—The President shall provide for participation in the interagency study under subsection (a) by—

(1) the Secretary of State;

(2) the Secretary of Defense;

³Sec. 905(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2032), amended and restated sec. 1002. It formerly read as follows:

“Not later than December 1, 1985, and not later than December 1 of each following year, the President shall submit to the Congress a report (in both classified and unclassified versions) containing, with respect to the compliance of the Soviet Union with its arms control commitments, the findings of the President and any additional information necessary to keep the Congress currently informed.”

As stated by sec. 905(b) of Public Law 100-456, this amendment “shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990.”

- (3) the Secretary of Energy;
 - (4) the Director of the Arms Control and Disarmament Agency;
 - (5) the heads of appropriate intelligence agencies;
 - (6) the Joint Chiefs of Staff; and
 - (7) such other officers as the President may designate.
- (c) REPORT.—(1) The President shall submit to Congress a report on the results of the interagency study.
- (2) The report shall be submitted in both a classified and unclassified version.
- (3) The report shall be submitted not later than May 1, 1986.

SEC. 1004. SENSE OF CONGRESS RELATING TO UNITED STATES-SOVIET NEGOTIATIONS ON REDUCTION IN NUCLEAR ARMS

It is the sense of the Congress—

- (1) that the President of the United States and the General Secretary of the Communist Party of the Union of Soviet Socialist Republics should be commended for their willingness to meet to discuss major issues in United States-Soviet relations; and
- (2) that following thorough preparation, such meetings should be used to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms.

SEC. 1005. PILOT PROGRAM FOR EXCHANGE OF CERTAIN HIGH-RANKING MILITARY AND CIVILIAN PERSONNEL WITH THE SOVIET UNION

(a) SUBMISSION OF PLAN.—The Secretary of Defense shall submit to the appropriate committees of Congress a plan for the establishment and operation during fiscal year 1986 of a pilot program for the exchange of visits between—

- (1) high-ranking officers of the Armed Forces of the United States and high-ranking civilian officials of the Department of Defense; and
- (2) corresponding high-ranking officers and officials of the Soviet Union.

(b) REQUIREMENTS OF PLAN.—Such plan shall include—

- (1) specific identification of the United States officers and officials selected for participation in the program;
- (2) the proposed length of the exchange visits with the Soviet Union;
- (3) a description of the specific goals of each exchange visit;
- (4) an estimate of the cost to the United States of participation in each visit;
- (5) a description of any special actions that will be taken to protect classified information of the United States during any visit to the United States by officers or officials of the Soviet Union who are participating in the program; and
- (6) any other details of the program that the Secretary considers appropriate.

(c) AVAILABILITY OF FUNDS.—Of the funds appropriated pursuant to section 301(a), the sum of \$100,000 shall be available only for costs required for participation by the United States in the pilot program described in subsection (a), including costs for travel, subsistence, and other support expenses.

(d) **DEADLINE FOR PLAN.**—The Secretary shall submit the plan required by subsection (a) not later than December 1, 1985.

SEC. 1006. REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

(a) **CONTINUED PARTICIPATION IN INTERAGENCY STUDIES.**—Notwithstanding any limitation in any other provision of this Act, the Secretary of Defense, in accordance with section 1107(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525), shall participate in any comprehensive interagency study conducted on the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

(b) **REPORT ON NUCLEAR WINTER FINDINGS.**—Not later than March 1, 1986, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives⁴ an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States;

and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

* * * * *

⁴Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

q. Department of Defense Authorization Act, 1985

Partial Text of Public Law 98-525 [H.R. 5167], 98 Stat. 2492, approved October 19, 1984; as amended by Public Law 99-145 [Department of Defense Authorization Act, 1986; S. 1160], 99 Stat. 619, approved November 8, 1985; Public Law 99-661 [National Defense Authorization Act, Fiscal Year 1987, S. 2368] 100 Stat. 3816, approved November 14, 1986; and by Public Law 100-180 [National Defense Authorization Act for Fiscal Years 1988 and 1989, H.R. 1748], 101 Stat 1019, approved December 4, 1987

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

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

* * * * *

TITLE XI—MATTERS RELATING TO ARMS CONTROL

REPORT ON STRATEGIC NUCLEAR SUBMARINE FORCE

SEC. 1101. Not later than April 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives¹ a report on the survivability of the United States strategic nuclear ballistic missile submarine force. The report shall address whether there are grounds for adjusting, in short or long-range terms, strategic force plans of the United States based on any vulnerability or potential vulnerability of such force. The report shall also examine the feasibility and desirability of enhancing the survivability of such force through measures that would affect antisubmarine warfare, including the nature of the patrols and the rules of engagement of attack submarines and the nature of the patrols and the rules of engagement of ballistic missile submarines.

ANNUAL REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. 1102.² * * * [Repealed—1987]

REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

SEC. 1103. Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation of the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the

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

²Sec. 1102 was repealed by sec. 231(b) of Public Law 100-180 (101 Stat. 1019).

theater nuclear arsenal to types and numbers of weapons whose characteristics make for a more stable and credible force. The report (in addition to any other matter covered) should specifically address the following issues:

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use. existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) MATTERS TO BE CONSIDERED.—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM
EUROPE

SEC. 1104. The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

SEC. 1105. (a) Not later than April 15, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability consistent with existing United States policy.

(b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental ballistic missiles having an accuracy on the order of the MX missile (including specifically the MX missile, the D-5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationale for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called “first-strike capability” against the Soviet Union.

(c) The report shall also include an assessment of corresponding Soviet counterforce and first-strike capabilities.

TRANSMITTAL TO CONGRESS OF REPORT ON SOVIET COMPLIANCE WITH
ARMS CONTROL AGREEMENTS

SEC. 1106. (a) Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress the text of the report by the General Advisory Committee on Arms Control of the Arms Control and Disarmament Agency entitled “A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958–1983 (U)”, dated November 1983. If the President determines that that report contains material the release of which to Congress would compromise United States intelligence sources, methods of intelligence gathering, or the national security of the United States, the President may furnish the text of such report after deleting or modifying such compromising material.

(b) Not later than 60 days after the date of the enactment of this Act, the President shall transmit to Congress an unclassified version of the report described in subsection (a).

REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

SEC. 1107. (a) The Secretary of Defense shall participate in any comprehensive study of the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

(b) Not later than March 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives¹ an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such studies and findings have on (A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment, (B) the nuclear arms control policy of the United States, and (C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

SENSE OF THE CONGRESS RELATING TO THE ESTABLISHMENT OF NUCLEAR RISK REDUCTION CENTERS IN THE UNITED STATES AND THE SOVIET UNION

SEC. 1108. (a) The Congress makes the following findings:

(1) An increasing number of scenarios (including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a State sponsored threat) could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Soviet Union, situations that neither side anticipates, intends, or desires.

(2) There has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons.

(3) Such proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great.

(4) Current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities.

(5) The President, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union pertaining to—

(A) the addition of a high speed facsimile capability to the direct communication link (hotline);

(B) the creation of a joint military communications link between the Department of Defense and the Soviet Defense Ministry; and

(C) the establishment by the Governments of the United States and Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital.

(6) The establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations, thereby enhancing the security of both the United States and the Soviet Union.

(7) These centers could serve a variety of functions, including—

(A) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

(B) maintaining close contact during nuclear threats or incidents precipitated by third parties;

(C) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

(D) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and

(E) establishing a dialog about nuclear doctrines, forces, and activities.

(8) The continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers.

(b) The Congress—

(1) commends the President for his announced support for the confidence building measures described in subsection (a) and his initiation of negotiations which have occurred; and

(2) urges the President to pursue negotiations on these measures with the Government of the Soviet Union and to add to these negotiations the establishment of nuclear risk reduction

centers in both nations to be operated under the direction of the appropriate diplomatic and defense authorities.

SENSE OF CONGRESS REGARDING A REPORT TO CONGRESS ON CERTAIN VERIFICATION PROGRAMS RELATING TO BIOLOGICAL AND CHEMICAL WEAPONS

SEC. 1109. (a) The Congress makes the following findings:

(1) The Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict.

(2) The President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union has refused to respond adequately to United States concerns about the transfer or use by the Soviet Union of lethal chemical warfare agents in Laos, Kampuchea, and Afghanistan and United States concerns about adherence by the Soviet Union to the 1972 Biological and Toxin Weapons Convention.

(3) Experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

(4) The 1972 Biological and Toxin Weapons Convention is scheduled for review in 1985.

(5) The United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons.

(6) Any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) The Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs³ and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating—

³Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

- (1) existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban; and
 - (2) the budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.
- (c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than March 15, 1985.

SENSE OF CONGRESS EXPRESSING SUPPORT FOR UNITED STATES TO
PURSUE OUTSTANDING ARMS CONTROL COMPLIANCE

SEC. 1110. (a) The Congress makes the following findings:

- (1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies.
- (2) The President has declared that “as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint”.
- (3) The United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements.
- (4) The President has declared that “the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions”.
- (5) The President has also declared that “the United States is continuing to carry out its obligations under relevant agreements”.
- (6) It would be detrimental to the security interests of the United States and its allies and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union.
- (7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms.
- (8) The Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table.
- (9) A termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult.
- (10) Both sides have, to date, abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits.

(11) It is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed and to continue to remain at or below a level of 820 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles, 1,200 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles, and 1,320 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles and heavy bombers equipped with air launched cruise missiles, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels;

(2) The United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded;

(3) the President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by February 15, 1985;

(4) the President shall provide to Congress on or before June 1, 1985, a report that—

(A) describes the implications of the United States Ship Alaska's sea trials, both with and without the concurrent dismantling of older launchers of missiles with multiple independently targeted reentry vehicles with multiple independently targeted reentry vehicles, for the current United States no-undercut policy and strategic arms and United States security interests more generally;

(B) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy;

(C) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements; and

(D) makes recommendations regarding the future of United States interim restraint policy; and

(5) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies and should consult with the Congress before making any change in current policy.

POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

SEC. 1111. (a) The Senate makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) It is the sense of the Senate that at the earliest possible date, the President should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

(c) In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

* * * * *

G. WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL

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1. War Powers

a. War Powers Resolution

**Public Law 93-148 [H.J. Res. 542], 87 Stat. 555, passed over President's veto
November 7, 1973**

JOINT RESOLUTION Concerning the war powers of Congress and the President.

*Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2.¹ (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

¹ 50 U.S.C. 1541.

See also the authorization for use of U.S. military force against Iraq (Public Law 102-1; 105 Stat. 3), page 2071.

See also Congressional findings and conditional authorization for use of U.S. military force in Somalia (sec. 8151 of Public Law 103-139; 107 Stat. 1475), page 2073, and the sense of the Congress and a statement of Congressional policy on U.S. armed forces in Somalia (sec. 1512 of Public Law 103-160; 107 Stat. 1840), page 2075.

See also the Joint Resolution regarding U.S. policy toward Haiti (Public Law 103-423; 108 Stat. 4358), page 2068.

CONSULTATION

SEC. 3.² The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

SEC. 4.³ (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

² 50 U.S.C. 1542.

³ 50 U.S.C. 1543.

CONGRESSIONAL ACTION⁴

SEC. 5.⁵ (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs⁶ of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

⁴ Consider also sec. 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1062; 50 U.S.C. 1546a) which provides:

“EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTION AND BILLS

“SEC. 1013. Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.”

For text of sec. 601(b) of the International Security Assistance and Arms Export Control Act of 1976, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁵ 50 U.S.C. 1544.

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

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL⁴

SEC. 6.⁷ (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section, shall be referred to the Committee on Foreign Affairs⁶ of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7.⁸ (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs⁶ of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the

⁷ 50 U.S.C. 1545.

⁸ 50 U.S.C. 1546.

time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8.⁹ (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term “introduction of United States Armed Forces” includes the assignment of members of such armed forces to command, coordinate, participate in the

⁹ 50 U.S.C. 1547.

movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

SEC. 9.¹⁰ If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

¹⁰50 U.S.C. 1548.

b. National Emergencies Act, as amended¹

Public Law 94-412 [H.R. 3884], 90 Stat. 1255, approved September 14, 1976; Public Law 95-223 [International Emergency Economic Powers Act, H.R. 7738], 91 Stat. 1625, approved December 28, 1977; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 448, approved August 16, 1985; and by Public Law 105-362 [Federal Reports Elimination Act of 1998 [Public Law 105-362; S. 1364], 112 Stat. 3280, approved November 10, 1998

AN ACT To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “National Emergencies Act”.

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101.² (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

- (1) any action taken or proceeding pending not finally concluded or determined on such date;
- (2) any action or proceeding based on any act committed prior to such date; or
- (3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words “any national emergency in effect” means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201.³ (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with sub-

¹ See also *Legislation on Foreign Relations Through 2000*, vol. III, sec. J, on International Economic Sanctions.

² 50 U.S.C. 1601.

³ 50 U.S.C. 1621.

section (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202.⁴ (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c)(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is re-

⁴ 50 U.S.C. 1622. References to a "joint" resolution instead of a "concurrent" resolution in this section were added by sec. 801 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 448).

ported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; with

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301.⁵ When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

⁵ 50 U.S.C. 1631.

TITLE IV—ACCOUNTABILITY AND REPORTING
REQUIREMENTS OF THE PRESIDENT

SEC. 401.⁶ (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declarations, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN
EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 148(a)) is amended—

(1) at the end of paragraph (9), by striking out “; or” and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting “and” at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) and (4).

(c) The joint resolution entitled “Joint resolution to authorize the temporary continuation of regulation of consumer credit”, approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled “An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes”, approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

⁶50 U.S.C. 1641.

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal;

SEC. 502.⁷ (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) * * * [Repealed—1977]⁸

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431 et seq.);⁹

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Section 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

⁷50 U.S.C. 1651.

⁸Paragraph (1), which contained a reference to sec. 5(b) of the Trading With the Enemy Act, was repealed by sec. 101(d) of Public Law 95-223 (91 Stat. 1625).

⁹Sec. 901(r)(2) of Public Law 105-362 (112 Stat. 3291) struck out "1431-1435" and inserted in lieu thereof "1431 et seq."

c. United States Policy Toward Haiti

Public Law 103-423 [S.J. Res. 229], 108 Stat. 4358, approved October 25, 1994

JOINT RESOLUTION Regarding United States policy toward Haiti.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.¹ SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

It is the sense of Congress that—

(a) the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

SEC. 2.¹ PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

The President shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Hai-

¹ 50 U.S.C. 1541 note, Sec. 1232 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 788) provided the following:

"SEC. 1232. LIMITATION ON DEPLOYMENT OF ARMED FORCES IN HAITI DURING FISCAL YEAR 2000 AND CONGRESSIONAL NOTICE OF DEPLOYMENTS TO HAITI.

"(a) LIMITATION ON DEPLOYMENT.—No funds available to the Department of Defense during fiscal year 2000 may be expended after May 31, 2000, for the continuous deployment of United States Armed Forces in Haiti pursuant to the Department of Defense operation designated as Operation Uphold Democracy.

"(b) REPORT.—Whenever there is a deployment of United States Armed Forces to Haiti after May 31, 2000, the President shall, not later than 96 hours after such deployment begins, transmit to Congress a written report regarding the deployment. In any such report, the President shall specify (1) the purpose of the deployment, and (2) the date on which the deployment is expected to end."

tian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

SEC. 3.¹ REPORT ON THE SITUATION IN HAITI.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(e) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including—

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections;

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

- (1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;
- (2) troop commitments by other nations to UNMIH;
- (3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;
- (4) proposed or actual participation of United States Armed Forces in UNMIH;
- (5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and
- (6) the anticipated duration of UNMIH.

SEC. 4.¹ REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990, to December 15, 1994.

SEC. 5.¹ REPORT ON UNITED STATES AGREEMENTS.

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

SEC. 6.¹ TRANSITION TO UNITED NATIONS MISSION IN HAITI.

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

d. Authorization for Use of Military Force Against Iraq¹

Public Law 102-1 [H.J. Res. 77], 105 Stat. 3, approved January 14, 1991; amended by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1536, approved November 29, 1999

JOINT RESOLUTION To authorize the use of United States Armed Forces pursuant to United Nations Security Council Resolution 678.

Whereas the Government of Iraq without provocation invaded and occupied the territory of Kuwait on August 2, 1990;

Whereas both the House of Representatives (in H. J. Res. 658 of the 101st Congress) and the Senate (in S. Con. Res. 147 of the 101st Congress) have condemned Iraq's invasion of Kuwait and declared their support for international action to reverse Iraq's aggression;

Whereas, Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs and its demonstrated willingness to use weapons of mass destruction pose a grave threat to world peace;

Whereas the international community has demanded that Iraq withdraw unconditionally and immediately from Kuwait and that Kuwait's independence and legitimate government be restored;

Whereas the United Nations Security Council repeatedly affirmed the inherent right of individual or collective self-defense in response to the armed attack by Iraq against Kuwait in accordance with Article 51 of the United Nations Charter;

Whereas, in the absence of full compliance by Iraq with its resolutions, the United Nations Security Council in Resolution 678 has authorized member states of the United Nations to use all necessary means, after January 15, 1991, to uphold and implement all relevant Security Council resolutions and to restore international peace and security in the area; and

Whereas Iraq has persisted in its illegal occupation of, and brutal aggression against Kuwait: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress, assembled,

SECTION 1. SHORT TITLE

This joint resolution may be cited as the "Authorization for Use of Military Force Against Iraq Resolution".

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—The President is authorized, subject to subsection (b), to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve

¹For other legislation on U.S. policy toward Iraq, see *Legislation on Foreign Relations Through 2001*, vol. I-B.

implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.²

(b) REQUIREMENT FOR DETERMINATION THAT USE OF MILITARY FORCE IS NECESSARY.—Before exercising the authority granted in subsection (a), the President shall made available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has used all appropriated diplomatic and other peaceful means to obtain compliance by Iraq with the United Nations Security Council resolutions cited in subsection (a); and

(2) that those efforts have not been and would not be successful in obtaining such compliance.

(c) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SEC. 3. REPORTS TO CONGRESS.

At least once every 90³ days, the President shall submit to the Congress a summary on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council in response to Iraq's aggression.

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

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

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

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

³Sec. 207 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “60” and inserted in lieu thereof “90”.

e. Authorization for Use of Military Force in Somalia

Partial text of Public Law 103-139 [Department of Defense Appropriations Act, 1994; H.R. 2519], 107 Stat. 1418 at 1475, approved November 11, 1993

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * *

SEC. 8151.¹ (a) The Congress finds that—

(1) the United States entered into Operation Restore Hope in December of 1992 for the purpose of relieving mass starvation in Somalia;

(2) the original mission in Somalia, to secure the environment for humanitarian relief, had the unanimous support of the Senate, expressed in Senate Joint Resolution 45, passed on February 4, 1993, and was endorsed by the House when it amended S.J. Res. 45 on May 25, 1993;

(3) Operation Restore Hope was being successfully accomplished by United States forces, working with forces of other nations, when it was replaced by the UNOSOM II mission, assumed by the United Nations on May 4, 1993, pursuant to United Nations Resolution 814 of March 26, 1993;

(4) neither the expanded United Nations mission of national reconciliation, nor the broad mission of disarming the clans, nor any other mission not essential to the performance of the humanitarian mission has been endorsed or approved by the Senate;

(5) the expanded mission of the United Nations was, subsequent to an attack upon United Nations forces, diverted into a mission aimed primarily at capturing certain persons, pursuant to United Nations Security Council Resolution 837, of June 6, 1993;

(6) the actions of hostile elements in Mogadishu, and the United Nations mission to subdue those elements, have resulted in open conflict in the city of Mogadishu and the deaths of 29 Americans, at least 159 wounded, and the capture of American personnel; and

¹ 50 U.S.C. 1541 note.

(7) during fiscal years 1992 and 1993, the United States incurred expenses in excess of \$1,100,000,000 to support operations in Somalia.

(b) The Congress approves the use of United States Armed Forces in Somalia for the following purposes:

(1) The protection of United States personnel and bases; and

(2) The provision of assistance in securing open lines of communication for the free flow of supplies and relief operations through the provision of—

(A) United States military logistical support services to United Nations forces; and

(B) United States combat forces in a security role and as an interim force protection supplement to United Nations units: *Provided*, That funds appropriated, or otherwise made available, in this or any other Act to the Department of Defense may be obligated for expenses incurred only through March 31, 1994, for the operations of United States Armed Forces in Somalia: *Provided further*, That such date may be extended if so requested by the President and authorized by the Congress: *Provided further*, That funds may be obligated beyond March 31, 1994 to support a limited number of United States military personnel sufficient only to protect American diplomatic facilities and American citizens, and noncombat personnel to advise the United Nations commander in Somalia: *Provided further*, That United States combat forces in Somalia shall be under the command and control of United States commanders under the ultimate direction of the President of the United States: *Provided further*, That the President should intensify efforts to have United Nations member countries immediately deploy additional troops to Somalia to fulfill previous force commitments made to the United Nations and to deploy additional forces to assume the security missions of United States Armed Forces: *Provided further*, That—

(i) captured United States personnel in Somalia should be treated humanely and fairly; and

(ii) the United States and the United Nations should make all appropriate efforts to ensure the immediate and safe return of any future captured United States personnel: *Provided further*, That the President should ensure that, at all times, United States military personnel in Somalia have the capacity to defend themselves, and American citizens: *Provided further*, That the United States Armed Forces should remain deployed in or around Somalia until such time as all American service personnel missing in action in Somalia are accounted for, and all American service personnel held prisoner in Somalia are released: *Provided further*, That nothing herein shall be deemed to restrict in any way the authority of the President under the Constitution to protect the lives of Americans.

* * * * *

f. U.S. Armed Forces in Somalia

Partial text of Public Law 103-160 [H.R. 2401], 107 Stat. 1547 at 1840,
approved November 30, 1993

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SEC. 1512.¹ INVOLVEMENT OF ARMED FORCES IN SOMALIA.

(a) SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD SOMALIA.—

(1) Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

(2) Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of “a secure environment for humanitarian relief operations,” as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

(b) STATEMENT OF CONGRESSIONAL POLICY.—

(1) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding United States policy with respect to Somalia, including in particular the deployment of United States Armed Forces in that country, whether under United Nations or United States command.

(2) PLANNING.—The United States shall facilitate the assumption of the functions of United States forces by the United Nations.

(3) REPORTING REQUIREMENT.—

(A) The President shall ensure that the goals and objectives supporting deployment of United States forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(B) Such report shall include the status of planning to transfer the function contained in paragraph (2).

(4) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (3) Congress believes the President should by November 15, 1993, seek and receive congressional

¹ 50 U.S.C. 1541 note.

authorization in order for the deployment of United States
forces to Somalia to continue.

* * * * *

g. United States Military Forces in Lebanon

(1) Multinational Force in Lebanon Resolution¹

Public Law 98-119 [S.J. Res. 159], 97 Stat. 805, approved October 12, 1983

A JOINT RESOLUTION Providing statutory authorization under the War Powers Resolution for continued United States participation in the multinational peacekeeping force in Lebanon in order to obtain withdrawal of all foreign forces from Lebanon.

Resolve by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the “Multinational Force in Lebanon Resolution”.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the removal of all foreign forces from Lebanon is an essential United States foreign policy objective in the Middle East;

(2) in order to restore full control by the Government of Lebanon over its own territory, the United States is currently participating in the multinational peacekeeping force (hereafter in this resolution referred to as the “Multinational Force in Lebanon”) which was established in accordance with the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982;

(3) the Multinational Force in Lebanon better enables the Government of Lebanon to establish its unity, independence, and territorial integrity;

(4) progress toward national political reconciliation in Lebanon is necessary; and

(5) United States Armed Forces participating in the Multinational Force in Lebanon are now in hostilities requiring authorization of their continued presence under the War Powers Resolution.

(b) The Congress determines that the requirements of section 4(a)(1) of the War Powers Resolution became operative on August 29, 1983. Consistent with section 5(b) of the War Powers Resolution, the purpose of this joint resolution is to authorize the continued participation of United States Armed Forces in the Multinational Force in Lebanon.

(c) The Congress intends this joint resolution to constitute the necessary specific statutory authorization under the War Powers

¹ 50 U.S.C. 1541 note.

Resolution for continued participation by United States Armed Forces in the Multinational Force in Lebanon.

AUTHORIZATION FOR CONTINUED PARTICIPATION OF UNITED STATES
ARMED FORCES IN THE MULTINATIONAL FORCE IN LEBANON

SEC. 3. The President is authorized, for purposes of section 5(b) of the War Powers Resolution, to continue participation by United States Armed Forces in the Multinational Force in Lebanon, subject to the provisions of section 6 of this joint resolution. Such participation shall be limited to performance of the functions, and shall be subject to the limitations, specified in the agreement establishing the Multinational Force in Lebanon as set forth in the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982, except that this shall not preclude such protective measures as may be necessary to ensure the safety of the Multinational Force in Lebanon.

REPORTS TO THE CONGRESS

SEC. 4. As required by section 4(c) of the War Powers Resolution, the President shall report periodically to the Congress with respect to the situation in Lebanon, but in no event shall he report less often than once every three months. In addition to providing the information required by that section on the status, scope, and duration of hostilities involving United States Armed Forces, such reports shall describe in detail—

- (1) the activities being performed by the Multinational Force in Lebanon;
- (2) the present composition of the Multinational Force in Lebanon, including a description of the responsibilities and deployment of the armed forces of each participating country;
- (3) the results of efforts to reduce and eventually eliminate the Multinational Force in Lebanon;
- (4) how continued United States participation in the Multinational Force in Lebanon is advancing United States foreign policy interests in the Middle East; and
- (5) what progress has occurred toward national political reconciliation among all Lebanese groups.

STATEMENTS OF POLICY

SEC. 5. (a) The Congress declares that the participation of the armed forces of other countries in the Multinational Force in Lebanon is essential to maintain the international character of the peacekeeping function in Lebanon.

(b) The Congress believes that it should continue to be the policy of the United States to promote continuing discussions with Israel, Syria, and Lebanon with the objective of bringing about the withdrawal of all foreign troops from Lebanon and establishing an environment which will permit the Lebanese Armed Forces to carry out their responsibilities in the Beirut area.

(c) It is the sense of the Congress that, not later than one year after the date of enactment of this joint resolution and at least once a year thereafter, the United States should discuss with the other members of the Security Council of the United Nations the estab-

lishment of a United Nations peacekeeping force to assume the responsibilities of the Multinational Force in Lebanon. An analysis of the implications of the response to such discussions for the continuation of the Multinational Force in Lebanon shall be included in the reports required under paragraph (3) of section 4 of this resolution.

DURATION OF AUTHORIZATION FOR UNITED STATES PARTICIPATION IN
THE MULTINATIONAL FORCE IN LEBANON

SEC. 6. The participation of United States Armed Forces in the Multinational Force in Lebanon shall be authorized for purposes of the War Powers Resolution until the end of the eighteen-month period beginning on the date of enactment of this resolution unless the Congress extends such authorization, except that such authorization shall terminate sooner upon the occurrence of any one of the following:

- (1) the withdrawal of all foreign forces from Lebanon, unless the President determines and certifies to the Congress that continued United States Armed Forces participation in the Multinational Force in Lebanon is required after such withdrawal in order to accomplish the purposes specified in the September 25, 1982, exchange of letters providing for the establishment of the Multinational Force in Lebanon; or
- (2) the assumption by the United Nations or the Government of Lebanon of the responsibilities of the Multinational Force in Lebanon; or
- (3) the implementation of other effective security arrangements in the area; or
- (4) the withdrawal of all other countries from participation in the Multinational Force in Lebanon.

INTERPRETATION OF THIS RESOLUTION

SEC. 7. (a) Nothing in this joint resolution shall preclude the President from withdrawing United States Armed Forces participation in the Multinational Force in Lebanon if circumstances warrant and nothing in this joint resolution shall preclude the Congress by joint resolution from directing such a withdrawal.

(b) Nothing in this joint resolution modifies, limits, or supersedes any provision of the War Powers Resolution or the requirement of section 4(a) of the Lebanon Emergency Assistance Act of 1983, relating to congressional authorization for any substantial expansion in the number or role of United States Armed Forces in Lebanon.

CONGRESSIONAL PRIORITY PROCEDURES FOR AMENDMENTS

SEC. 8. (a) Any joint resolution or bill introduced to amend or repeal this Act shall be referred to the Committee on Foreign Affairs² of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be. Such joint resolution or bill shall be considered by such committee within fifteen cal-

²Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

endar days and may be reported out, together with its recommendations, unless such House shall otherwise determine pursuant to its rules.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by the yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(2) Agreement Between the United States and Lebanon Regarding U.S. Participation in the Multinational Force, Dated September 25, 1982

Your Excellency: I have the honor to refer to the urgent discussions between representatives of our two Governments concerning the recent tragic events which have occurred in the Beirut area, and to consultations between my Government and the Secretary General of the United Nations pursuant to United Nations Security Council Resolution 521. On behalf of the Republic of Lebanon, I wish to inform your Excellency's Government of the determination of the Government of Lebanon to restore its sovereignty and authority over the Beirut area and thereby to assure the safety of persons in the area and bring an end to violence that has recurred. To this end, Israeli forces will withdraw from the Beirut area.

In its consultations with the Secretary General, the Government of Lebanon has noted that the urgency of the situation requires immediate action and the Government of Lebanon, therefore, is, in conformity with the objectives in U.N. Security Council Resolution 521, proposing to several nations that they contribute forces to serve as a temporary Multinational Force (MNF) in the Beirut area. The mandate of the MNF will be to provide an interposition force at agreed locations and thereby provide the multinational presence requested by the Lebanese Government to assist it and the Lebanese Armed Forces (LAF) in the Beirut area. This presence will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, and thereby further efforts of my Government to assure the safety of persons in the area and bring to an end the violence which has tragically recurred. The MNF may undertake other functions only by mutual agreement.

In the foregoing context, I have the honor to propose that the United States of America deploy a force of approximately 1200 personnel to Beirut, subject to the following terms and conditions:

- The American military force shall carry out appropriate activities consistent with the mandate of the MNF.
- Command authority over the American force will be exercised exclusively by the U.S. Government through existing American military channels.
- The LAF and MNF will form a Liaison and Coordination Committee, composed of representatives of the MNF participating governments and chaired by the representatives of my Government. The Liaison and Coordination Committee will have two essential components: (A) Supervisory liaison; and (B) Military and technical liaison and coordination.
- The American force will operate in close coordination with the LAF. To assure effective coordination with the LAF, the American force will assign liaison officers to the LAF and the Government of Lebanon will assign liaison officers to the American

force. The LAF liaison officers to the American force will, inter alia, perform liaison with the civilian population, and with the U.N. observers and manifest the authority of the Lebanese Government in all appropriate situations. The American force will provide security for LAF personnel operating with the U.S. contingent.

- In carrying out its mission, the American force will not engage in combat. It may, however, exercise the right of self-defense.
- It is understood that the presence of the American force will be needed only for a limited period to meet the urgent requirements posed by the current situation. The MNF contributors and the Government of Lebanon will consult fully concerning the duration of the MNF presence. Arrangements for the departure of the MNF will be the subject of special consultations between the Government of Lebanon and the MNF participating governments. The American force will depart Lebanon upon any request of the Government of Lebanon or upon the decision of the President of the United States.
- The Government of Lebanon and the LAF will take all measures necessary to ensure the protection of the American force's personnel, to include securing assurance from all armed elements not now under the authority of the Lebanese Government that they will refrain from hostilities and not interfere with any activities of the MNF.
- The American force will enjoy both the degree of freedom of movement and the right to undertake those activities deemed necessary for the performance of its mission for the support of its personnel. Accordingly, it shall enjoy the privileges and immunities accorded the administrative and technical staff of the American Embassy in Beirut, and shall be exempt from immigration and customs requirements, and restrictions on entering or departing Lebanon. Personnel, property, and equipment of the American force introduced into Lebanon shall be exempt from any form of tax, duty, charge, or levy.

I have the further honor to propose, if the foregoing is acceptable to your Excellency's Government, that Your Excellency's reply to that effect, together with this note, shall constitute an agreement between our two Governments.

Please accept, Your Excellency, the assurances of my highest consideration.

FOUAD BOUTROS,

Deputy Prime Minister / Minister of Foreign Affairs.

September 25, 1982.

YOUR EXCELLENCY: I have the honor to refer to your Excellency's note of 25 September 1982 requesting the deployment of an American force to the Beirut area. I am pleased to inform you on behalf of my Government that the United States is prepared to deploy temporarily a force of approximately 1,200 personnel as part of a Multinational Force (MNF) to establish an environment which will permit the Lebanese Armed Forces (LAF) to carry out their responsibilities in the Beirut area. It is understood that the presence of such an American force will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, an ob-

jective which is fully shared by my Government, and thereby further efforts of the Government of Lebanon to assure the safety of persons in the area and bring to an end the violence which has tragically recurred.

I have the further honor to inform you that my Government accepts the terms and conditions concerning the presence of the American force in the Beirut area as set forth in your note, and that Your Excellency's note and this reply accordingly constitute an agreement between our two Governments.

ROBERT DILLON,
U.S. Ambassador.

2. Cuban Resolution

Public Law 87-733 [S.J. Res. 230], 76 Stat. 697, approved October 3, 1962¹

JOINT RESOLUTION Expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers to “extend their system to any portion of this hemisphere as dangerous to our peace and safety”; and

Whereas in the Rio Treaty of 1947 the parties agreed that “an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations”; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: “the present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union”; and

Whereas the International Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

¹See also the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 818 at 833), and sec. 1543 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2639), which reaffirmed Public Law 87-733.

3. Middle East Resolutions and Related Material¹

a. Resolution to Promote Peace and Stability in the Middle East

Public Law 85-7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957; as amended by Public Law 87-195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961

JOINT RESOLUTION To promote peace and stability in the Middle East.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

SEC. 2.² The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

SEC. 3.³ The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed \$200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided*, That, whenever the President determines it to be important to the security of the United States, such use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the

¹ See also legislation under War Powers.

² 22 U.S.C. 1961, Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

“(8) section 2 of the joint resolution entitled “A joint resolution to promote peace and stability in the Middle East”, approved March 9, 1957 (Public Law 85-7), and * * * “should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.”

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

³ 22 U.S.C. 1962.

provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided, further*, That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives⁴ have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided*, That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last fifteen days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriation of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

SEC. 4.⁵ The President should continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

SEC. 5.⁶ The President shall whenever appropriate⁷ report to the Congress his action hereunder.

SEC. 6.⁸ This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

⁴Sec. 1(a)(1) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

⁵22 U.S.C. 1963.

⁶22 U.S.C. 1964.

⁷Sec. 705 of the Foreign Assistance Act of 1961 (Public Law 87-195) inserted "whenever appropriate" in lieu of "within the months of January and July of each year".

⁸22 U.S.C. 1965.

**b. Multinational Force and Observers Participation
Resolution**

Public Law 97-132 [S.J. Res. 100], 95 Stat. 1693, approved December 29, 1981

A JOINT RESOLUTION To authorize the participation of the United States in a multinational force and observers to implement the Treaty of Peace between Egypt and Israel.

Whereas the Treaty of Peace between Egypt and Israel signed on March 26, 1979, calls for the supervision of security arrangements to be undertaken by United Nations forces and observers; and

Whereas the United Nations has been unable to assume those responsibilities at this time; and

Whereas a Protocol signed on August 3, 1981, by the Government of the Arab Republic of Egypt and the Government of the State of Israel provides for the creation of an alternative Multinational Force and Observers to implement the Treaty of Peace; and

Whereas the Government of the Arab Republic of Egypt and the Government of the State of Israel have requested that the United States participate in the Multinational Force and Observers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the “Multinational Force and Observers Participation Resolution”.

STATEMENT OF POLICY

SEC. 2.¹ The Congress considers the establishment of the Multinational Force and Observers to be an essential stage in the development of a comprehensive settlement in the Middle East. The Congress enacts this resolution with the hope and expectation that establishment of the Multinational Force and Observers will assist Egypt and Israel in fulfilling the Camp David accords and bring about the establishment of a self-governing authority in order to provide full autonomy in the West Bank and Gaza.

PARTICIPATION OF UNITED STATES PERSONNEL IN THE
MULTINATIONAL FORCE AND OBSERVERS

SEC. 3.² (a)(1) Subject to the limitations contained in this resolution, the President is authorized to assign, under such terms and conditions as he may determine, members of the United States

¹ 22 U.S.C. 3421.

² 22 U.S.C. 3422.

Armed Forces to participate in the Multinational Force and Observers.

(2) The Congress declares that the participation of the military personnel of other countries in the Multinational Force and Observers is essential to maintain the international character of the peacekeeping function in the Sinai: Accordingly—

(A) before the President assigns or details members of the United States Armed Forces to the Multinational Force and Observers, he shall notify the Congress of the names of the other countries that have agreed to provide military personnel for the Multinational Force and Observers, the number of military personnel to be provided by each country, and the functions to be performed by such personnel; and

(B) if a country withdraws from the Multinational Force and Observers with the result that the military personnel of less than four foreign countries remain, every possible effort must be made by the United States to find promptly a country to replace that country.

(3) Members of the United States Armed Forces, and United States civilian personnel, who are assigned, detailed or otherwise provided to the Multinational Force and Observers may perform only those functions or responsibilities which are specified for United Nations Forces and Observers in the Treaty of Peace and in accordance with the Protocol.

(4) The number of members of the United States Armed Forces who are assigned or detailed by the United States Government to the Multinational Force and Observers may not exceed 1,200 at any one time.

(b) Subject to the limitations contained in this resolution, the President is authorized to provide, under such terms and conditions as he may determine, United States civilian personnel to participate as observers in the Multinational Force and Observers.

(c) The status of United States Government personnel assigned to the Multinational Force and Observers under subsection (a)(1) or (b) of this section shall be as provided in section 629 of the Foreign Assistance Act of 1961.

UNITED STATES CONTRIBUTIONS TO COSTS

SEC. 4.³ (a) In accordance with the agreement set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981, the United States share of the costs of the Multinational Force and Observers—

(1) shall not exceed 60 percent of the budget for the expenses connected with the establishment and initial operation of the Multinational Force and Observers during the period ending September 30, 1982; and

(2) shall not exceed 33 $\frac{1}{3}$ percent of the budget for the annual operating expenses of the Multinational Force and Observers for each financial year beginning after that date.

(b)(1) There are authorized to be appropriated to the President to carry out chapter 6 of part II of the Foreign Assistance Act of

³ 22 U.S.C. 3423.

1961, in addition to amounts otherwise available to carry out that chapter, \$125,000,000 for the fiscal year 1982 for use in paying the United States contribution to the budget of the Multinational Force and Observers. Amounts appropriated under this subsection⁴ are authorized to remain available until expended.

(2) Expenditures made pursuant to section 138 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (Public Law 97-51), or pursuant to any subsequent corresponding provision applicable to the fiscal year 1982, shall be charged to the appropriation authorized by this subsection.

(c) Unless required by law, reimbursements to the United States by the Multinational Force and Observers shall be on the basis of identifiable costs actually incurred as a result of requirements imposed by the Multinational Force and Observers, and shall not include administrative surcharges.

NONREIMBURSED COSTS

SEC. 5.⁵ (a) Any agency of the United States Government is authorized to provide administrative and technical support and services to the Multinational Force and Observers, without reimbursement and upon such terms and conditions as the President may direct, when the provision of such support or services would not result in significant incremental costs to the United States.

(b) The provision by the United States to the Multinational Force and Observers under the authority of this resolution or any other law of any property, support, or services, including the provision of military and civilian personnel under section 3 of this resolution, on other than a reimbursable basis, shall be kept to a minimum.

(c) The President may provide military training to members of the armed forces of other countries participating in the Multinational Force and Observers.

REPORTS TO THE CONGRESS⁶

SEC. 6.⁷ (a) Not later than April 30, 1982, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a detailed written report with respect to the period ending two weeks prior to that date which contains the information specified in subsection (b).

(b) Not later than January 15 of each year (beginning in 1983), the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a written report which describes—

⁴Sec. 138 of Public Law 97-51 (Continuing Appropriations for Fiscal Year 1982; 95 Stat. 967) provided \$125 million in appropriations for U.S. participation in the Multinational Force and Observers.

⁵22 U.S.C. 3424.

⁶Pursuant to Executive Order 12361, the reporting functions required under this section were delegated to the Secretary of State. Such Executive Order further instructed the Secretary to consult with the Director of OMB, the Secretary of Defense, the Director of ACDA, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies, as appropriate, in exercising this responsibility.

⁷22 U.S.C. 3425.

(1) the activities performed by the Multinational Force and Observers during the preceding year;

(2) the composition of the Multinational Force and Observers, including a description of the responsibilities and deployment of the military personnel of each participating country;

(3) all costs incurred by the United States Government (including both normal and incremental costs), set forth by category, which are associated with the United States relationship with the Multinational Force and Observers and which were incurred during the preceding fiscal year (whether or not the United States was reimbursed for those costs), specifically including but not limited to—

(A) the costs associated with the United States units and personnel participating in the Multinational Force and Observers (including salaries, allowances, retirement and other benefits, transportation, housing, and operating and maintenance costs), and

(B) the identifiable costs relating to property, support, and services provided by the United States to the Multinational Force and Observers;

(4) the costs which the United States Government would have incurred in maintaining in the United States those United States units and personnel participating in the Multinational Force and Observers;

(5) amounts received by the United States Government from the Multinational Force and Observers as reimbursement;

(6) the types of property, support, or services provided to the Multinational Force and Observers by the United States Government, including identification of the types of property, support, or services provided on a nonreimbursable basis; and

(7) the results of any discussions with Egypt and Israel regarding the future of the Multinational Force and Observers and its possible reduction or elimination.

(c)(1) The reports required by this section shall be as detailed as possible.

(2) The information pursuant to subsection (b)(3) shall, in the case of costs which are not identifiable, be set forth with reasonable accuracy.

(3) The information with respect to any administrative and technical support and services provided on a nonreimbursed basis under section 5(a) of this resolution shall include a description of the types of support and services which have been provided and an estimate of both the total costs of such support and services and the incremental costs incurred by the United States with respect to such support and services.

STATEMENTS OF CONGRESSIONAL INTENT

SEC. 7.⁸ (a) Nothing in this resolution is intended to signify approval by the Congress of any agreement, understanding, or commitment made by the Executive branch other than the agreement to participate in the Multinational Force and Observers as set forth in the exchanges of letters between the United States and Egypt

⁸ 22 U.S.C. 3426.

and between the United States and Israel which were signed on August 3, 1981.

(b) The limitations contained in this resolution with respect to United States participation in the Multinational Force and Observers apply to the exercise of the authorities provided by this resolution or provided by any other provision of law. No funds appropriated by the Congress may be obligated or expended for any activity which is contrary to the limitations contained in this resolution.

(c) Nothing in this resolution shall affect the responsibilities of the President or the Congress under the War Powers Resolution (Public Law 93-148).

DEFINITIONS

SEC. 8.⁹ As used in this resolution—

(1) the term “Multinational Force and Observers” means the Multinational Force and Observers established in accordance with the Protocol between Egypt and Israel signed on August 3, 1981, relating to the implementation of the security arrangements of the Treaty of Peace; and

(2) the term “Treaty of Peace” means the Treaty of Peace between the Arab Republic and Egypt and the State of Israel signed on March 26, 1979, including the Annexes thereto.

⁹22 U.S.C. 3427.

c. Multinational Force and Observers Reports

Executive Order 12361, April 27, 1982, 47 F.R. 18313, 22 U.S.C. 3425 note

By the authority vested in me as President of the United States of America by the Multinational Force and Observers Participation Resolution (Public Law 97-132, 95 Stat. 1693) and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *Delegation of Functions.* The reporting function conferred upon the President by Section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425) is delegated to the Secretary of State.

Sec. 2. *Interagency Coordination.* In the exercise of the function conferred on the Secretary of State by Section 1 of this Order, the Secretary of State shall consult with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the United States Arms Control and Disarmament Agency, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies as appropriate.

d. Implementing the United States Proposal for the Early-Warning System in Sinai

Public Law 94-110 [H.J. Res. 683] 89 Stat. 572, approved October 13, 1975¹

JOINT RESOLUTION To implement the United States proposal for the early-warning system in Sinai.

Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombat functions and setting forth the terms and conditions thereof;

Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

Whereas the implementation of the United States proposal for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the "United States Proposal² for the Early Warning System in Sinai": Provided, however, That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the

¹ 22 U.S.C. 2441 note.

² See *Legislation on Foreign Relations*, vol. V, sec. G, for text of the U.S. proposal.

same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93-148 is privileged under section 7 of such law.³

SEC. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

SEC. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

³ 50 U.S.C. 1544, 1546. War Powers Resolution.

4. Tonkin Gulf Resolution

Public Law 88-408 [H.J. Res. 1145], 78 Stat. 384, approved August 10, 1964

A JOINT RESOLUTION To promote the maintenance of international peace and security in Southeast Asia.

- 【Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and
- 【Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and
- 【Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

【SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

【SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.】

NOTE.—Sec. 12 of Public Law 91-672, the Foreign Military Sales Act Amendments, approved January 12, 1971, provided that the joint resolution should terminate effective January 2, 1971. (See *Legislation on Foreign Relations Through 1993*, vol. I, page 564.) See also, S. Con. Res. 64, passed July 10, 1970.

5. National Commitment

Senate Resolution 85, 91st Congress, Report No. 91-129, agreed to June 25,
1969

RESOLUTION

Whereas accurate definition of the term “national commitment” in recent years has become obscured: Now, therefore, be it

Resolved, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

6. North Atlantic Alliance¹

a. European Security Act of 1998

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998;² amended by Public Law 106-113 [H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, approved November 29, 1999

TITLE XXVII—EUROPEAN SECURITY ACT OF 1998³

SEC. 2701. SHORT TITLE.

This title may be cited as the “European Security Act of 1998”.

SEC. 2702. STATEMENT OF POLICY.

(a) POLICY WITH RESPECT TO NATO ENLARGEMENT.—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered for membership in NATO as soon as they meet the criteria for such membership;

(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of

¹See also chapter 138 of 10 USC, relating to cooperative agreements with NATO allies and other countries, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

²Title XXVII of division G of Public Law 105-277 (112 Stat. 2681-839).

³22 U.S.C. 1928 note.

the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

(b) POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.—

(1) IMPLEMENTATION.—NATO enlargement should be carried out in such a manner as to underscore the Alliance's defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

(2) LIMITATIONS ON COMMITMENTS TO RUSSIA.—In seeking to demonstrate to Russia NATO's defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized. In particular, no commitments should be made to Russia that would have the effect of—

(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

(A) to demarcate and respect all its borders with neighboring states;

(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the

independent states of the former Soviet Union without the full and complete agreement of those states;

(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

(c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

(2) DISCUSSIONS WITH NATO ALLIES.—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

(3) CONSTITUTIONAL PREROGATIVES.—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.

(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(a).

(b) DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.—

(1) DESIGNATION OF ADDITIONAL COUNTRIES.—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) RULE OF CONSTRUCTION.—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible

- to receive assistance under the program established under section 203(a) of such Act.
- (3) SENSE OF CONGRESS.—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—
- (A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;
 - (B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and
 - (C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.
- (c) REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—
- (1) IN GENERAL.—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—
- (A) the procurement of items in support of these programs; and
 - (B) the transfer of such items to countries participating in these programs.
- (2) FUNDS DESCRIBED.—Funds described in this paragraph are funds that are available—
- (A) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or
 - (B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.
- (d) EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.—Section 105 of Public Law 104-164 (110 Stat. 1427) is amended by striking “1996 and 1997” and inserting “1997, 1998, and 1999”.
- (e) CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.—Section 203(c) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) is amended—* * *

SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.

It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

- (1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;
- (2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.

(a) **POLICY OF SECTION.**—This section is enacted in order to implement the policy set forth in section 2702(c).

(b) **RESTRICTION ON ENTRY INTO FORCE OF ABM/TMD DEMARCATION AGREEMENTS.**—An ABM/TMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act, that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

(c) **SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.**—

(1) **RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.**—It is the sense of Congress that no ABM/TMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term “national territory” as used in Article VI and Article IX of the ABM Treaty.

(2) **PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.**—It is the sense of Congress that no ABM/TMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

(d) **REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.**—Not later than January 1, 1999, January 1, 2000, and January 1, 2001,⁴ the President shall submit to the Committees on International Relations, National Security, and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative

⁴Sec. 209(d) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “and January 1, 2000” and inserted in lieu thereof “January 1, 2000, and January 1, 2001.”

projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

(1) COOPERATIVE PROJECTS.—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

(2) FUNDING.—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

(3) STATUS OF DIALOGUE OR DISCUSSIONS.—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

(e) DEFINITIONS.—In this section:

(1) ABM/TMD DEMARCATION AGREEMENT.—The term “ABM/TMD demarcation agreement” means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

(2) ABM TREATY.—The term “ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435), and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645).

b. NATO Enlargement Facilitation Act of 1996

Title VI of sec. 101(c) of title I of Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996

TITLE VI—NATO ENLARGEMENT FACILITATION ACT OF 1996¹

SEC. 601. SHORT TITLE.

This title may be cited as the “NATO Enlargement Facilitation Act of 1996”.

SEC. 602. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America’s security, freedom, and prosperity remain linked to the security of the countries of Europe.

(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

(6) NATO has enlarged its membership on 3 different occasions since 1949.

¹ 22 U.S.C. 1928 note.

(7) Congress supports the admission of qualified new members to NATO and the European Union at an early date and has sought to facilitate the admission of qualified new members into NATO.

(8) Lasting security and stability in Europe requires not only the military integration of emerging democracies in Central and Eastern Europe into existing European structures, but also the eventual economic and political integration of these countries into existing European structures.

(9) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe should be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making available the resources necessary to supplement efforts prospective new members are themselves undertaking.

(10) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the North Atlantic Treaty, signed at Washington on April 4, 1949 (hereafter in this Act referred to as the "Washington Treaty").

(11) In order to assist emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO to be prepared to assume the responsibilities of NATO membership, the United States should encourage and support efforts by such countries to develop force structures and force modernization priorities that will enable such countries to contribute to the full range of NATO missions, including, most importantly, territorial defense of the Alliance.

(12) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

(13) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

(14) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

(15) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the Washington Treaty would contribute to international peace and enhance the security of the region. Countries which have become democracies and established market economies, which practice good neighborly re-

lations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the Washington Treaty.

(16) Democratic civilian control of defense forces is an essential element in the process of preparation for those states interested in possible NATO membership.

(17) Protection and promotion of fundamental freedoms and human rights is an integral aspect of genuine security, and in evaluating requests for membership in NATO, the human rights records of the emerging democracies in Central and Eastern Europe should be evaluated according to their commitments to fulfill in good faith the human rights obligations of the Charter of the United Nations, the principles of the Universal Declaration on Human Rights, and the Helsinki Final Act.

(18) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

(19) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine means to strengthen the sovereignty and enhance the security of United Nations recognized countries in that region.

(20) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(21) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(22) The Congress of the United States finds in particular that Poland, Hungary, and the Czech Republic have made significant progress toward achieving the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994 and should be eligible for the additional assistance described in this Act.

(23) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

(24) The process of NATO enlargement entails the consensus agreement of the governments of all 16 NATO members and ratification in accordance with their constitutional procedures.

(25) Some NATO members, such as Spain and Norway, do not allow the deployment of nuclear weapons on their territory although they are accorded the full collective security guarantees provided by Article 5 of the Washington Treaty. There is no a priori requirement for the stationing of nuclear weapons

on the territory of new NATO members, particularly in the current security climate. However, NATO retains the right to alter its security posture at any time as circumstances warrant.

SEC. 603. UNITED STATES POLICY.

It is the policy of the United States—

(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership;

(3) to support the enlargement of NATO in recognition that enlargement will benefit the interests of the United States and the Alliance and to consider these benefits in any analysis of the costs of NATO enlargement;

(4) to ensure that all countries in Central and Eastern Europe are fully aware of and capable of assuming the costs and responsibilities of NATO membership, including the obligation set forth in Article 10 of the Washington Treaty that new members be able to contribute to the security of the North Atlantic area; and

(5) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

SEC. 604. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.

It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine—

(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance.

SEC. 605. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA AND LITHUANIA.

In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

SEC. 606. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.

(a) **IN GENERAL.**—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act: Poland, Hungary, and the Czech Republic.

(b) **DESIGNATION OF SLOVENIA.**—Effective 90 days after the date of enactment of this Act, Slovenia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d) of such Act, unless the President certifies to Congress prior to such effective date that Slovenia fails to meet the criteria under section 203(d)(3) of such Act.

(c) **DESIGNATION OF OTHER COUNTRIES.**—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

(1) have expressed a clear desire to join NATO;

(2) have begun an individualized dialogue with NATO in preparation for accession;

(3) are strategically significant to an effective NATO defense; and

(4) meet the other criteria outlined in section 203(d)(3) of the NATO Participation Act of 1994 (title II of Public Law 103-447; 22 U.S.C. 1928 note).

(d) **RULE OF CONSTRUCTION.**—Nothing in this section precludes the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.

(a) **IN GENERAL.**—There are authorized to be appropriated \$60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994.

(b) **AVAILABILITY.**—Of the funds authorized to be appropriated by subsection (a)—

(1) not less than \$20,000,000 shall be available for the cost, as defined in section 502(5) of the Credit Reform Act of 1990, of direct loans pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the “Foreign Military Financing Program”);

(2) not less than \$30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the "Foreign Military Financing Program"); and

(3) not more than \$10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

(c) **RULE OF CONSTRUCTION.**—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

SEC. 608. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.

(a) **IN GENERAL.**—To the extent provided in advance in appropriations acts for such purposes, funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

- (1) the procurement of items in support of these programs; and
- (2) the transfer of such items to countries participating in these programs.

(b) **FUNDS DESCRIBED.**—Funds described in this subsection are funds that are available—

- (1) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or
- (2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

SEC. 609. EXCESS DEFENSE ARTICLES.

(a) **PRIORITY DELIVERY.**—Notwithstanding any other provision of law, the delivery of excess defense articles under the authority of section 203(c) (1) and (2) of the NATO Participation Act of 1994 and section 516 of the Foreign Assistance Act of 1961 shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1640).

(b) **COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.**—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

SEC. 610. MODERNIZATION OF DEFENSE CAPABILITY.

The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, Slovenia, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994, by exploring with such countries options for the sale or lease to such

countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

SEC. 611. TERMINATION OF ELIGIBILITY.

(a) **TERMINATION OF ELIGIBILITY.**—The eligibility of a country designated pursuant to subsection (a) or (b) of section 606 or pursuant to section 203(d) of the NATO Participation Act of 1994 may be terminated upon a determination by the President that such country does not meet the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994.

(b) **NOTIFICATION.**—At least 15 days before terminating the eligibility of any country pursuant to subsection (a), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 612. CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT.

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended in sections 203(a), 203(d)(1), and 203(d)(2) by striking “countries emerging from communist domination” each place it appears and inserting “emerging democracies in Central and Eastern Europe”.

c. NATO Participation Act of 1994

Title II of Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691 at 4695, approved November 2, 1994; amended by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–208 [NATO Enlargement Facilitation Act of 1996, title VI of sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and by Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

TITLE II—NATO PARTICIPATION ACT OF 1994¹

SEC. 201. SHORT TITLE.

This title may be cited as the “NATO Participation Act of 1994”.

SEC. 202. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

¹ 22 U.S.C. 1928 note.

SEC. 203. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace emerging democracies in Central and Eastern Europe² designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries designated under subsection (d)³ by supporting and encouraging, inter alia—

- (1) joint planning, training, and military exercises with NATO forces;
- (2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and
- (3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries designated under subsection (d)³ the following types of security assistance:

- (1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961.⁴
- (2)⁵ Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).
- (3)⁵ Assistance under section 23 of the Arms Export Control Act (relating to the “Foreign Military Financing Program”).
- (4)⁶ Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).
- (5) Funds made available for the “Nonproliferation and Disarmament Fund”.⁷

²Sec. 612 of the NATO Enlargement Facilitation Act of 1996 (title VI of sec. 101(c) of title I of Public Law 104-208; 110 Stat. 3009) struck out “countries emerging from communist domination” and inserted in lieu thereof “emerging democracies in Central and Eastern Europe” in secs. 203(a), 203(d)(1) and 203(d)(2).

³Sec. 585(a)(2)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), struck out countries described in such subsection” and inserted in lieu thereof “countries designated under subsection (d)”.

⁴Sec. 2703(e)(1) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-842) struck out “, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section)” following “Foreign Assistance Act of 1961”.

⁵Sec. 2703(e)(2) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-842) struck out former para. (2), which had provided as follows:

“(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).”

Sec. 2703(e)(5) of that Act redesignated paras. (3) through (8) as paras. (2) through (7), respectively.

⁶Sec. 585(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754, added paras. (5) through (8), redesignated as paras. (4) through (7) by sec. 2703(e)(5) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-843).

⁷Sec. 2703(e)(3) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-843) struck out “appropriated under the “Nonproliferation and Disarmament Fund” account” and inserted in lieu thereof “made available for the ‘Nonproliferation and Disarmament Fund’”.

(6) Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).

(7) Notwithstanding any other provision of law, including section 516(e)⁸ of the Foreign Assistance Act of 1961,⁹ the President may direct the crating, packing, handling, and transportation of excess defense articles provided pursuant to paragraph (1)¹⁰ of this subsection without charge to the recipient of such articles.

(d)¹¹ DESIGNATION OF ELIGIBLE COUNTRIES.—

(1) INITIAL PRESIDENTIAL REVIEW AND DESIGNATION.—Within 60 days of the enactment of the NATO Participation Act Amendments of 1995, the President should evaluate the degree to which any emerging democracies in Central and Eastern Europe¹² which has expressed its interest in joining NATO meets the criteria set forth in paragraph (3), and may designate one or more of these countries as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

(2) OTHER EUROPEAN EMERGING DEMOCRACIES IN CENTRAL AND EASTERN EUROPE.—¹³ In addition to the countries designated pursuant to paragraph (1), the President may at any time designate other European emerging democracies in Cen-

⁸Sec. 2703(e)(4)(A) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-843) struck out “any restrictions in sections 516 and 519” and inserted in lieu thereof “section 516(e)”.

⁹Sec. 2703(e)(4)(B) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-843) struck out “as amended,” following “Foreign Assistance Act of 1961.”

¹⁰Sec. 2703(e)(4)(C) of the European Security Act of 1999 (title XXVII of Public Law 105-277; 112 Stat. 2681-843) struck out “paragraphs (1) and (2)” and inserted in lieu thereof “paragraph (1)”.

¹¹Sec. 585(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 752), amended and restated subsec. (d). It formerly read as follows:

“(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

“(1) are full and active participants in the Partnership for Peace;

“(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

“(3) are likely in the near future to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

“(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.”

¹²Sec. 612 of the NATO Enlargement Facilitation Act of 1996 (title VI of sec. 101(c) of title I of Public Law 104-208; 110 Stat. 3009), which struck out “countries emerging from communist domination” each place it appeared in secs. 203(a), 203(d)(1), and 203(d)(2), and inserted in lieu thereof “emerging democracies in Central and Eastern Europe”. Such language did not appear in sec. 203(d)(1), however, having been amended and restated by sec. 585 of Public Law 104-107. In keeping with the intent of the amendment, it has been applied here to strike out “any country emerging from communist domination” and insert in lieu thereof “emerging democracies in Central and Eastern Europe”.

tral and Eastern Europe¹³ as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are, with respect to each country, that the country—

(A) has made significant progress toward establishing—

- (i) shared values and interests;
- (ii) democratic governments;
- (iii) free market economies;
- (iv) civilian control of the military, of the police, and of intelligence services, so that these organizations do not pose a threat to democratic institutions, neighboring countries, or the security of NATO or the United States;
- (v) adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organization on Security and Cooperation in Europe;
- (vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area;
- (vii) commitment to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;
- (viii) commitment and ability to accept the obligations, responsibilities, and costs of NATO membership; and
- (ix) commitment and ability to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

(B) is likely, within five years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(C) is not ineligible to receive assistance under section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act.

¹³As amended by sec. 612 of the NATO Enlargement Facilitation Act of 1996 (title VI of sec. 101(c) of title I of Public Law 104-208; 110 Stat. 3009), which struck out “countries emerging from communist domination” and inserted in lieu thereof “emerging democracies in Central and Eastern Europe”.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1), and shall include with such notification a memorandum of justification with respect to the proposed designation.¹⁴

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

(g)¹⁵ EFFECT ON OTHER AUTHORITIES.—Nothing in this Act shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act.

SEC. 204. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 203(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 203(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 203(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 205. ANNUAL¹⁶ REPORTING REQUIREMENT.

The President shall include in the annual¹⁷ report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

- (1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d).¹⁸

¹⁴ Sec. 585(a)(2)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), inserted "(22 U.S.C. 2394-1), and shall include with such notification a memorandum of justification with respect to the proposed designation".

¹⁵ Sec. 585(c) of the of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), added subsec. (g).

¹⁶ Sec. 585(d)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), added "ANNUAL" in the section catchline.

¹⁷ Sec. 585(d)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), added "annual" after "include in the".

¹⁸ Sec. 585(d)(3) Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 754), struck out "and other Partnership for Peace

(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d).¹⁸

countries emerging from communist domination designated pursuant to section 203(d)” and inserted in lieu thereof “and any other country designated by the President pursuant to section 203(d)” in paras. (1) and (2).

d. Reaffirming the United States Commitment to the North Atlantic Alliance

Public Law 96-9 [H.J. Res. 283], 93 Stat. 22, approved April 19, 1979

JOINT RESOLUTION Reaffirming the United States commitment to the North Atlantic Alliance.

Whereas April 4, 1979, marks the thirtieth anniversary of the signing in Washington of the North Atlantic Treaty;

Whereas the alliance created by the treaty constitutes the manifestation of the ties which bind the democracies of Europe and North America and of their determination to preserve their common heritage of individual liberties, the rule of law, and the dignity of humankind;

Whereas the peace and stability insured by the alliance for thirty years has fostered the well-being and freedom of nearly six hundred million human beings;

Whereas the conditions for political stability and economic prosperity derive from the military security provided by the alliance; and

Whereas the search for world peace, mutual respect among the nations of the world, and reduction in armaments are attainable only in a secure environment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

SEC. 2. The Congress recognizes the contribution of the Canadian and European Allies to the common defense and to the preservation of the civilization and common heritage of the West.

SEC. 3. On the occasion of this thirtieth anniversary, the Congress pledges its support for the Alliance as the indispensable basis for the achievement of our mutual security, the reduction of tensions, and the pursuit of improved relations among all nations.

SEC. 4. The Congress requests that the President of the United States forward copies of this resolution to the Chiefs of State of all member countries of the North Atlantic Treaty Organization, and to the Secretary General in recognition of his contribution to the strength and confidence of the North Atlantic Treaty Organization.

**e. Reaffirming the Unity of the North Atlantic Alliance
Commitment**

Public Law 95-287 [S.J. Res. 137], 92 Stat. 280, approved May 30, 1978

JOINT RESOLUTION Reaffirming the unity of the North Atlantic Alliance
commitment.

Whereas thirty years ago the Congress passed the Vandenberg Resolution, which has come to represent the highest qualities of bipartisan statesmanship; and

Whereas the North Atlantic Alliance has preserved the peace in Europe for an entire generation, allowing its members to attain unprecedented levels of prosperity and well-being for their people; and

Whereas the leaders of the Alliance will gather in Washington, D.C., on May 30 and 31, 1978, to renew their adherence to its principles and rededicate themselves to its objectives; and

Whereas this meeting will be the capstone of efforts to ensure that the needs of collective security will be met over the next decade:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

SEC. 2. The Congress recognizes the extraordinary success of the North Atlantic Alliance in fulfilling its goals of safeguarding the freedom, common heritage and civilization of its peoples, founded on the principles of democracy, individual liberty and the rule of law.

SEC. 3. On the occasion of the NATO summit meeting in Washington, the Congress declares its support for efforts to reaffirm the unity of the North Atlantic Alliance, to strengthen its defensive capabilities to meet threats to the peace, and on this basis to persevere in attempts to lessen tensions with the Warsaw Pact States.

7. Taiwan Relations ¹

a. Taiwan Relations Act

Public Law 96-8 [H.R. 2479], 93 Stat. 14, approved April 10, 1979; as amended by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983

AN ACT To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Taiwan Relations Act”.

FINDINGS AND DECLARATION OF POLICY

SEC. 2.² (a) The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People’s Republic of China rests

¹ See also sec. 1073 of the National Defense Authorization Act for Fiscal Year 1995, relating to visas for high-level officials of Taiwan, in *Legislation on Foreign Relations Through 2001*, vol. I-B.

See also sec. 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4320), relating to visas for officials of Taiwan, in this volume.

² 22 U.S.C. 3301.

upon the expectation that the future of Taiwan will be determined by peaceful means;

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economical system, of the people on Taiwan.

(c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

SEC. 3.³ (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.⁴

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

SEC. 4.⁵ (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the law of the United States shall apply with respect to Taiwan in the manner that the laws of the

³22 U.S.C. 3302.

⁴Sec. 23 of the International Security Assistance Act of 1979 (Public Law 96-92; 93 Stat. 710) provided authorization for the President to transfer to Taiwan war reserve material and other property during calendar years 1980 and 1981. For text of sec. 23, see *Legislation on Foreign Relations Through 2001*, vol. I-A.

⁵22 U.S.C. 3303. See also sec. 704 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), pertaining to reports from the Secretary of State to Congress on U.S. support for membership or participation of Taiwan in international organizations.

United States applied with respect to Taiwan prior to January 1, 1979.

(b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3)(A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.⁶

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution of any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 5.⁷ (a) During the three-year period beginning on the date of enactment of this Act, the \$1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

⁶Sec. 714 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1548) provided the following:

“Sec. 714. The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).”.

The first sentence of such sec. 202(b) stated: “Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State.”.

On April 30, 1979, the Department of State made a final ruling whereby 22 CFR Part 42 was amended effective April 23, 1979, to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application. This ruling, which was made pursuant to the authority contained in section 104 of the Immigration and Nationality Act, can be found at 44 F.R. 28659, May 16, 1979.

⁷22 U.S.C. 3304.

THE AMERICAN INSTITUTE OF TAIWAN

SEC. 6.⁸ (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—

(1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or

(2) such comparable successor nongovernmental entity as the President may designate,
(hereafter in this Act referred to as the “Institute”).

(b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

SEC. 7.⁹ (a) The Institute may authorize any of its employees on Taiwan—

(1) to administer to or take from any person on oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

SEC. 8.¹⁰ (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the In-

⁸ 22 U.S.C. 3305.

⁹ 22 U.S.C. 3306.

¹⁰ 22 U.S.C. 3307.

ternal Revenue Code of 1986,¹¹ relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue Code of 1986,¹¹ the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES
FROM THE INSTITUTE

SEC. 9.¹² (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.

(c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

SEC. 10.¹³ (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

(b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

¹¹ Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

¹² 22 U.S.C. 3308.

¹³ 22 U.S.C. 3309.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH
THE INSTITUTE

SEC. 11.¹⁴ (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related deaths, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with any agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

(b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including con-

¹⁴ 22 U.S.C. 3310.

tinued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

(d)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1986,¹⁵ amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

SEC. 12.¹⁵ (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs¹⁶ of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

¹⁵ 22 U.S.C. 3311.

¹⁶ Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(d)¹⁷ * * * [Repealed—1983]

RULES AND REGULATIONS

SEC. 13.¹⁸ The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

CONGRESSIONAL OVERSIGHT

SEC. 14.¹⁹ (a) The Committee on Foreign Affairs¹⁶ of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

- (1) the implementation of the provisions of this Act;
- (2) the operation and procedures of the Institute;
- (3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and
- (4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

SEC. 15.²⁰ For purposes of this Act—

- (1) the term “laws of the United States” includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and
- (2) the term “Taiwan” includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporation and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPROPRIATIONS

SEC. 16.²¹ In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may

¹⁷ Sec. 1011(a)(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1061) repealed subsec. (d). Subsec. (d) had required a report from the Secretary of State to the Congress every 6 months until April 1981 regarding the economic relations between the United States and Taiwan.

¹⁸ 22 U.S.C. 3312.

¹⁹ 22 U.S.C. 3313.

²⁰ 22 U.S.C. 3314.

²¹ 22 U.S.C. 3315.

be necessary to carry out such provisions.²² Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

SEC. 17.²³ If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 18. This Act shall be effective as of January 1, 1979.

²²The Department of State Appropriations Act, 1986 (title III of Public Law 99-180; 99 Stat. 1150), provided \$9,800,000 for necessary expenses to carry out this Act during fiscal year 1986. The Department of State Appropriations Act, 1987 (title III of Public Law 99-591; 100 Stat. 3341), provided \$9,379,000 for fiscal year 1987. The Department of State Appropriations Act, 1988 (title III of Public Law 100-202; 101 Stat. 1329), provided \$11,000,000 for fiscal year 1988. The Department of State Appropriations Act, 1989 (title III of Public Law 100-459; 102 Stat. 2205), provided \$10,890,000 for fiscal year 1989. The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$11,300,000 for fiscal year 1990. The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$11,752,000 for fiscal year 1991. The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$13,784,000 for fiscal year 1992. The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided \$15,543,000 for fiscal year 1993. The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$15,165,000 for fiscal year 1994. The Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided \$15,465,000 for fiscal year 1995. The Department of State and Related Agencies Appropriations Act, 1996 (title IV of sec. 101 of title I of Public Law 104-134; 110 Stat. 1321-38), provided \$15,165,000 for fiscal year 1996. The Department of State and Related Agencies Appropriations Act, 1997 (title V of sec. 101(a) of title I of Public Law 104-208; 110 Stat. 3009), provided \$14,490,000 for fiscal year 1997. The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$14,000,000 for fiscal year 1998. The Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-95), provided \$14,750,000 for fiscal year 1999. The Department of State and Related Agency Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1536), provided \$15,375,000 for fiscal year 2000. The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided \$16,345,000 for fiscal year 2001.

²³22 U.S.C. 3316.

b. American Institute in Taiwan Facilities Enhancement Act

Public Law 106–212 [H.R. 3707], 114 Stat. 332, approved May 26, 2000

AN ACT To authorize funds for the construction of a facility in Taipei, Taiwan suitable for the mission of the American Institute in Taiwan.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Institute in Taiwan Facilities Enhancement Act”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) in the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), the Congress established the American Institute in Taiwan (hereafter in this Act referred to as “AIT”), a nonprofit corporation incorporated in the District of Columbia, to carry out on behalf of the United States Government any and all programs, transactions, and other relations with Taiwan;

(2) the Congress has recognized AIT for the successful role it has played in sustaining and enhancing United States relations with Taiwan;

(3) the Taipei office of AIT is housed in buildings which were not originally designed for the important functions that AIT performs, whose location does not provide adequate security for its employees, and which, because they are almost 50 years old, have become increasingly expensive to maintain;

(4) the aging state of the AIT office building in Taipei is neither conducive to the safety and welfare of AIT’s American and local employees nor commensurate with the level of contact that exists between the United States and Taiwan;

(5) AIT has made a good faith effort to set aside funds for the construction of a new office building, but these funds will be insufficient to construct a building that is large and secure enough to meet AIT’s current and future needs; and

(6) because the Congress established AIT and has a strong interest in United States relations with Taiwan, the Congress has a special responsibility to ensure that AIT’s requirements for safe and appropriate office quarters are met.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated the sum of \$75,000,000 to AIT—

(1) for plans for a new facility and, if necessary, residences or other structures located in close physical proximity to such facility, in Taipei, Taiwan, for AIT to carry out its purposes under the Taiwan Relations Act; and

(2) for acquisition by purchase or construction of such facility, residences, or other structures.

(b) LIMITATIONS.—Funds appropriated pursuant to subsection (a) may only be used if the new facility described in that subsection meets all requirements applicable to the security of United States diplomatic facilities, including the requirements in the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801 et seq.) and the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted by section 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-451), except for those requirements which the Director of AIT certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate are not applicable on account of the special status of AIT. In making such certification, the Director shall also certify that security considerations permit the exercise of the waiver of such requirements.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

c. Maintaining Unofficial Relations With the People of Taiwan

Executive Order 13014, 61 F.R. 42963, August 15, 1996, 22 U.S.C. 3301 note

In light of the recognition of the People's Republic of China by the United States of America as the sole legal government of China, and by the authority vested in me as President of the United States of America by the Taiwan Relations Act (Public Law 96-8, 22 U.S.C. 3301 *et seq.*) ("Act"), and section 301 of title 3, United States Code, in order to facilitate the maintenance of commercial, cultural, and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

Section 1. *Delegation and Reservation of Functions.*

1-101. Exclusive of the functions otherwise delegated, or reserved to the President by this order, there are delegated to the Secretary of State ("Secretary") all functions conferred upon the President by the Act, including the authority under section 7(a) of the Act to specify which laws of the United States relative to the provision of consular services may be administered by employees of the American Institute on Taiwan ("Institute"). In carrying out these functions, the Secretary may redelegate his authority, and shall consult with other departments and agencies as he deems appropriate.

1-102. There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of section 11(a) of the Act. These functions shall be exercised in consultation with the Secretary.

1-103. There are reserved to the President the functions conferred upon the President by section 3, the second sentence of section 9(b), and the determination specified in section 10(a) of the Act.

Sec. 2. *Specification of Laws and Determinations.*

2-201. Pursuant to section 9(b) of the Act, and in furtherance of the purposes of the Act, the procurement of services may be effected by the Institute without regard to the following provisions of law and limitations of authority as they may be amended from time to time:

(a) Sections 1301(d) and 1341 of title 31, United States Code, and section 3732 of the Revised Statutes (41 U.S.C. 11) to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable, with section 52.228-7 of the Federal Acquisition Regulations;

(b) Section 3324 of title 31, United States Code;

(c) Sections 3709, 3710, and 3735 of the Revised Statutes, as amended (41 U.S.C. 5, 8, and 13);

(d) Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(e) Title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251–260);

(f) The Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613);

(g) Chapter 137 of title 10, United States Code (10 U.S.C. 2301–2316);

(h) The Act of May 11, 1954 (the “Anti-Wunderlich Act”) (41 U.S.C. 321, 322); and

(i) Section (f) of 41 U.S.C. 423.

2–202. (a) With respect to cost-type contracts with the Institute under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights that may have accrued under the contractor, the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in subsection (a) of this section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights that may have accrued under the contract or the amendments or modifications thereof, if the Secretary determines in each case that such action is necessary to protect the foreign policy interests of the United States.

2–203. Pursuant to section 10(a) of the Act, the Taipei Economic and Cultural Representative Office of the United States (“TECRO”), formerly the Coordination Council for North American Affairs (“CCNAA”), is determined to be the instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act. Nothing contained in this determination or order shall affect, or be construed to affect, the continued validity of agreements, contracts, or other undertakings, of whatever kind or nature, entered into previously by CCNAA.

Sec. 3. President’s Memorandum of December 30, 1978.

3–301. Agreements and arrangements referred to in paragraph (B) of President Carter’s memorandum of December 30, 1978, entitled “Relations With the People on Taiwan” (44 F.R. 1075) shall, unless otherwise terminated or modified in accordance with law, continue in force and be performed in accordance with the Act and this order.

Sec. 4. *General.* This order supersedes Executive Order No. 12143 of June 22, 1979.¹

¹44 F.R. 37191.

8. Panama Canal

a. Panama Canal Act of 1979¹

Partial text of Public Law 96-70 [H.R. 111], 93 Stat. 452, approved September 27, 1979; as amended by Public Law 98-217 [H.R. 3969], 98 Stat. 9, approved February 14, 1984; Public Law 98-600 [H.R. 6101], 98 Stat. 3145, approved October 30, 1984; Public Law 99-195 [H.R. 664], 99 Stat. 1349, approved December 23, 1985; Public Law 99-209 [Panama Canal Amendments Act of 1985, H.R. 729], 99 Stat. 1716, approved December 23, 1985; Public Law 99-223 [Panama Canal Commission Authorization Act, Fiscal Year 1986; H.R. 1784], 99 Stat. 1738, approved December 28, 1985; Public Law 99-368 [Panama Canal Commission Authorization Act, Fiscal Year 1987; H.R. 4409], 100 Stat. 775, approved August 1, 1986; Public Law 100-203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330, approved December 22, 1987; Public Law 100-705 [Panama Canal Commission Compensation Fund Act of 1988, H.R. 5287], 102 Stat. 4685, approved November 19, 1988; Public Law 101-510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102-484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103-160 [National Defense Authorization Act for Fiscal Year 1994, H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 103-416 [Immigration and Nationality Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104-66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; Public Law 104-99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104-99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104-107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996; Public Law 104-106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105-85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105-261 [Strom Thurmond National Defense

¹For text of the Panama Canal Treaty, the document that this legislation implemented, see *Legislation on Foreign Relations*, vol. V, sec. G.

Sec. 3504(b) of the Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV of Public Law 106-65; 113 Stat. 975) provided the following:

“(b) OPERATION OF THE OFFICE OF TRANSITION ADMINISTRATION.—

“(1) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) shall continue to govern the Office of Transition Administration until October 1, 2004.

“(2) PROCUREMENT.—For purposes of exercising authority under the procurement laws of the United States, the director of the Office of Transition Administration shall have the status of the head of an agency.

“(3) OFFICES.—The Office of Transition Administration shall have offices in the Republic of Panama and in the District of Columbia. Section 1110(b)(1) of the Panama Canal Act of 1973 (22 U.S.C. 3620(b)(1)) does not apply to such office in the Republic of Panama.

“(4) OFFICE OF TRANSITION ADMINISTRATION DEFINED.—In this subsection the term ‘Office of Transition Administration’ means the office established under section 1305 of the Panama Canal Act of 1979 (22 U.S.C. 3714a) to close out the affairs of the Panama Canal Commission.

“(5) EFFECTIVE DATE.—This subsection shall be effective on and after the termination of the Panama Canal Treaty of 1977.”

Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999

AN ACT To provide for the operation and maintenance of the Panama Canal under the Panama Treaty of 1977, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Panama Canal Act of 1979”.

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²Sec. 3548(d) of Public Law 104–201 (110 Stat. 2869) made numerous changes to the table of contents, to reflect amendments to the text of the Act. The table of contents was also amended by secs. 3522(b), 3524(b), and 3526(b) of Public Law 104–106 (110 Stat. 638, 640, 641).

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STATEMENT OF PURPOSE

SEC. 2.³ It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

DEFINITIONS⁴

SEC. 3.⁵ (a) For purposes of this Act—
 (1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of Amer-

³ 22 U.S.C. 3601.

⁴ Sec. 3548(c)(1) of Public Law 104-201 (110 Stat. 2869) struck out "DEFINITIONS AND RECOMMENDATION FOR LEGISLATION" and inserted in lieu thereof "DEFINITIONS".

⁵ 22 U.S.C. 3602. Sec. 3522(2) of Public Law 104-201 (110 Stat. 2860) struck out subsec. (d) to this section, which had read as follows:

"(d) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress a request for legislation which would—

"(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty.

"(2) repeal the Canal Zone Code, and

"(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty."

ica and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977; and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying laws of the United States and regulations issued pursuant to such laws⁶ with respect to transactions, occurrences, or status on or after October 1, 1979—⁷

(1) “Canal Zone” shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) “Canal Zone waters” and “waters of the Canal Zone” shall be deemed to refer to “Panama Canal waters” and “waters of the Panama Canal”, respectively;

(3) “Government of the Canal Zone” or “Canal Zone Government” shall be deemed to refer to the United States of America;

(4) “Governor of the Canal Zone” or “Governor”, wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission; and⁸

(5) “Panama Canal Company” or “Company”, wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission.⁸

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before October 1, 1979.⁹

(d)¹⁰ For purposes of this Act:

(1) The term “Canal Transfer Date” means December 31, 1999, such date being the date specified in the Panama Canal

⁶Sec. 3550(d)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out “the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws” and inserted in lieu thereof “laws of the United States and regulations issued pursuant to such laws”.

⁷Sec. 3550(d)(2)(A) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out “the effective date of this Act” and inserted in lieu thereof “October 1, 1979”.

⁸Sec. 3522(1) of Public Law 104-201 (110 Stat. 2860) inserted “and” after the semicolon at the end of paragraph (4), struck the semicolon at the end of paragraph (5) and inserted a period, and struck paragraphs (6) and (7), which had read as follows:

“(6) in chapter 57 of title 5 of the Canal Zone, ‘hospitals’ and ‘health Bureau’ shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

“(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, ‘health director’ shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama.”.

⁹Sec. 3550(d)(2)(A) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out “the effective date of this Act” and inserted in lieu thereof “October 1, 1979”.

¹⁰Sec. 3512 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2063) added subsec. (d).

Treaty of 1977 for the transfer of the Panama Canal from the United States of America to the Republic of Panama.

(2) The term "Panama Canal Authority" means the entity created by the Republic of Panama to succeed the Panama Canal Commission as of the Canal Transfer Date.

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF COMMISSION

SEC. 1101.¹¹ (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the "Commission") is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.

SUPERVISORY BOARD

SEC. 1102.¹² (a)¹³ The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense.¹⁴ Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other

¹¹ 22 U.S.C. 3611. Sec. 3522(a) of Public Law 104-106 (110 Stat. 638) amended and restated sec. 1101.

¹² 22 U.S.C. 3612.

¹³ Sec. 3523 of Public Law 104-106 (110 Stat. 638) amended and restated subsec. 1102(a).

¹⁴ Sec. 3511(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out "The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary," and inserted in lieu thereof "The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense."

office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board.¹⁵

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for level V of the Executive Schedule under section 5316¹⁶ of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section¹⁷ or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.¹⁸

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy.¹⁹ The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.²⁰

¹⁵Sec. 3511(a)(2) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out "Secretary of Defense or a designee of the Secretary of Defense" and inserted in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

¹⁶Sec. 3504 of Public Law 101-510 (104 Stat. 1846) struck out "grade GS-18 of the General Schedule under section 5332" and inserted in lieu thereof "level V of the Executive Schedule under section 5316".

The rate of pay for level V of the Executive Schedule was set at \$114,500 per annum by Schedule 5 of Executive Order 13144 (December 21, 1999; 64 F.R. 72237).

¹⁷Sec. 6 of the Panama Canal Commission Authorization Act, Fiscal Year 1986 (Public Law 99-223; 99 Stat. 1740) added text to this point beginning with "except that * * *". See previous note.

¹⁸The words beginning "or, as authorized" and ending at this point were added by sec. 5416 of title V of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-270).

¹⁹Sec. 7 of Public Law 100-705 (102 Stat. 4686) struck out at this point the sentence: "Only one proxy may be valid at any one time."

²⁰Public Law 98-217 (98 Stat. 9) added sentences three, four, and five of subsec. (c).

GENERAL POWERS OF COMMISSION

SEC. 1102a.²¹ (a) The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(b) The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

(c) The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

(d) The Commission may enter into contracts, leases, agreements, or other transactions.

(e) The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

(f) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

(g)²² (1) The Commission may appoint any United States citizen to have the general powers of a notary public to perform, on behalf of Commission employees and their dependents outside the United States, any notarial act that a notary public is required or authorized to perform within the United States. Unless an earlier expiration is provided by the terms of the appointment, any such appointment shall expire three months after the Canal Transfer Date.

(2) Every notarial act performed by a person acting as a notary under paragraph (1) shall be as valid, and of like force and effect within the United States, as if executed by or before a duly authorized and competent notary public in the United States.

(3) The signature of any person acting as a notary under paragraph (1), when it appears with the title of that person's office, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

²¹ 22 U.S.C. 3612a. Sec. 3524(a) of Public Law 104-106 (110 Stat. 639) added secs. 1102a and 1102b.

²² Sec. 3546 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2073) redesignated subsec. (g) as subsec. (h), and added a new subsec. (g).

(h)²² The authority of the Commission under this section and section 1102b²³ is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code.

SPECIFIC POWERS OF COMMISSION

SEC. 1102b.²⁴ (a) The Commission may manage, operate, and maintain the Panama Canal.

(b) The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this Act, including the following:

- (1) Docks, wharves, piers, and other shoreline facilities.
- (2) Shops and yards.
- (3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.
- (4) Power systems, water systems, and a telephone system.
- (5) Construction facilities.
- (6) Living quarters and other buildings.
- (7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.
- (8) Recreational facilities.

(c) The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(d) The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

(e)²⁵ The Commission may conduct and promote commercial activities related to the management, operation, or maintenance of the Panama Canal. Any such commercial activity shall be carried out consistent with the Panama Canal Treaty of 1977 and related agreements.

(f)²⁶ (1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.

²³ Sec. 3550(d)(3) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "section 1102B" and inserted in lieu thereof "section 1102b").

²⁴ 22 U.S.C. 3612b. Sec. 3524(a) of Public Law 104-106 (110 Stat. 639) added secs. 1102a and 1102b.

²⁵ Sec. 3547 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2073) added subsec. (e).

²⁶ Sec. 3505 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2268) added subsec. (f).

ADMINISTRATOR

SEC. 1103.²⁷ (a) There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

(b) The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.

(c)²⁸ The Congress consents, for purposes of the 8th clause of article I, section 9 of the Constitution of the United States, to the acceptance by the individual serving as Administrator of the Commission of appointment by the Republic of Panama to the position of Administrator of the Panama Canal Authority. Such consent is effective only if that individual, while serving in both such positions, serves as Administrator of the Panama Canal Authority without compensation, except for payments by the Republic of Panama of travel and entertainment expenses, including per diem payments.

(d)²⁹ If before the Canal Transfer Date the Republic of Panama appoints as the Administrator of the Panama Canal Authority the individual serving as the Administrator of the Commission and if that individual accepts the appointment—

(1) during any period during which that individual serves as both Administrator of the Commission and the Administrator of the Panama Canal Authority—

(A) the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), shall not apply to that individual with respect to service as the Administrator of the Panama Canal Authority;

(B) that individual, with respect to participation in any particular matter as the Administrator of the Panama Canal Commission, is not subject to section 208(a) of title 18, United States Code, insofar as that section would otherwise apply to that matter only because the matter will have a direct and predictable effect on the financial interest of the Panama Canal Authority;

(C) that individual is not subject to sections 203 and 205 of title 18, United States Code, with respect to official acts performed as an agent or attorney for or otherwise representing the Panama Canal Authority; and

(D) that individual is not subject to sections 501(a) and 502(a)(4) of the Ethics in Government Act of 1978 (5

²⁷ 22 U.S.C. 3613. Sec. 3523(a) of Public Law 104-201 (110 Stat. 2860) amended and restated sec. 1103. The section formerly read as follows:

“SEC. 1103. There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.”

Sec. 3523(b) of Public Law 104-201 provided the following:

“(b) SAVINGS PROVISIONS.—Nothing in this section (or section 3549(3)) shall be considered to affect—

“(1) the tenure of the individual serving as Administrator of the Commission on the day before subsection (a) takes effect; or

“(2) until modified under section 1103(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.”

²⁸ Sec. 3521(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2063) added subsec. (c).

²⁹ Sec. 3521(b) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2063) added subsec. (d).

U.S.C. App.), with respect to compensation received for, and service in, the position of Administrator of the Panama Canal Authority; and

(2) effective upon termination of the individual's appointment as Administrator of the Panama Canal Commission at noon on the Canal Transfer Date, that individual is not subject to section 207 of title 18, United States Code, with respect to acts done in carrying out official duties as Administrator of the Panama Canal Authority.

DEPUTY ADMINISTRATOR

SEC. 1104.³⁰ (a) There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

(b) The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule, and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 1217 of this Act.

CONSULTATIVE COMMITTEE

SEC. 1105.³¹ (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 1106.³² (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the

³⁰ 22 U.S.C. 3614. Sec. 3524(a) of Public Law 104-201 (110 Stat. 2860) amended and restated sec. 1104, which formerly also provided for appointment of a chief engineer. Sec. 3524(b) of Public Law 104-201 also stated:

"(b) SAVINGS PROVISIONS.—Nothing in this section shall be considered to affect—

"(1) the tenure of the individual serving as Deputy Administrator of the Commission on the day before subsection (a) takes effect; or

"(2) until modified under section 1104(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving."

³¹ 22 U.S.C. 3615.

³² 22 U.S.C. 3616.

Joint Commission shall periodically review the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

SEC. 1107.³³ While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

SEC. 1108.³⁴ In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

³³ 22 U.S.C. 3617.

³⁴ 22 U.S.C. 3618.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

SEC. 1109.³⁵ (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama (to study the possibility of a sea level canal in the Republic of Panama) pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the test of the study shall be transmitted by the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

SEC. 1110.³⁶ (a) The United States Ambassador to the Republic of Panama with respect to the responsibilities of the Commission for the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)³⁷ shall apply with respect to the activities of the Commission.

(c)³⁸ (1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

(2) The benefits referred to in paragraph (1) are the following:

(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.

³⁵ 22 U.S.C. 3619.

³⁶ 22 U.S.C. 3620.

³⁷ Sec. 3550(d)(3) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a)," and inserted in lieu thereof "section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)".

³⁸ Sec. 3506 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) added subsec. (c).

SECURITY LEGISLATION

SEC. 1111.³⁹ It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

SEC. 1112.⁴⁰ (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on October 1, 1979.⁴¹ The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

³⁹ 22 U.S.C. 3621.

⁴⁰ 22 U.S.C. 3622.

⁴¹ Sec. 3550(d)(2)(A) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

(e)⁴² (1) Section 207 of title 18, United States Code, does not apply to a covered individual with respect to acts done in carrying out official duties as an officer or employee of the Panama Canal Authority.

(2) For purposes of paragraph (1), a covered individual is an officer or employee of the Panama Canal Authority who was an officer or employee of the Commission (other than the Administrator) and whose employment with the Commission terminated at noon on the Canal Transfer Date.

(3) This subsection is effective as of the Canal Transfer Date.

(f)⁴³ (1) The Congress consents to the following persons accepting civil employment (and compensation for that employment) with the Panama Canal Authority for which the consent of the Congress is required by the last paragraph of section 9 of article I of the Constitution of the United States, relating to acceptance of emoluments, offices, or titles from a foreign government:

(A) Retired members of the uniformed services.

(B) Members of a reserve component of the armed forces.

(C) Members of the Commissioned Reserve Corps of the Public Health Service.

(2) The consent of the Congress under paragraph (1) is effective without regard to subsection (b) of section 908 of title 37, United States Code (relating to approval required for employment of Reserve and retired members by foreign governments).

OFFICE OF OMBUDSMAN

SEC. 1113.⁴⁴ (a) There established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents), of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

⁴²Sec. 3522(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2064) added subsec. (e)).

⁴³Sec. 3522(b) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2064) added subsec. (f)).

⁴⁴22 U.S.C. 3623.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d)⁴⁵ The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

DEFINITIONS

SEC. 1201.⁴⁶ As used in this chapter—

- (1) “Executive agency” has the meaning given that term in section 105 of title 5, United States Code;
- (2) “uniformed services” has the meaning given the term in section 2101(3) of title 5, United States Code;
- (3) “competitive service” has the meaning given that term in section 2102 of title 5, United States Code; and
- (4) “United States” when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

SEC. 1202.⁴⁷ (a) In accordance with this chapter, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals

⁴⁵ Sec. 3525 of Public Law 104-201 (110 Stat. 2861) struck out subsec. (d) and redesignated former subsec. (e) as subsec. (d). Former subsec. (d) required the Ombudsman to be a U.S. citizen.

⁴⁶ 22 U.S.C. 3641. Sec. 3504 of the National Defense Authorization Act for Fiscal Year 1994 (title XXXV—Panama Canal Commission Authorization Act for Fiscal Year 1994; Public Law 103-160; 107 Stat. 1965) provides the following:

“SEC. 3504. EMPLOYMENT OF COMMISSION EMPLOYEES BY THE GOVERNMENT OF PANAMA.

“(a) CONSENT OF CONGRESS.—Subject to subsection (b), the Congress consents to employees of the Panama Canal Commission who are not citizens of the United States accepting civil employment with agencies and organizations affiliated with the Government of Panama (and compensation for that employment) for which the consent of Congress is required by the 8th clause of section 9 of article I of the Constitution of the United States, relating to acceptance of emolument, office, or title from a foreign State.

“(b) CONDITION.—Employees described in subsection (a) may accept employment described in such subsection (and compensation for that employment) only if the employment is approved by the designated agency ethics official of the Panama Canal Commission designated pursuant to the Ethics in Government Act of 1978 (5 U.S.C. App.), and by the Administrator of the Panama Canal Commission.”

⁴⁷ 22 U.S.C. 3642. Sec. 3526 of Public Law 104-201 (110 Stat. 2861) amended and restated sec. 1202.

in the uniformed services, may, if appointed under this section or section 1104 of this Act, serve as officers or employees of the Commission.

(c)⁴⁸ In the case of an individual who is an officer or employee of the Commission on November 17, 1997,⁴⁹ and who has not had a break in service with the Commission since that date, the rate of basic pay for that officer or employee⁵⁰ may not be less than the rate in effect for that officer or employee on that date⁵¹ except—

- (1) as provided in a collective bargaining agreement;
- (2) as a result of an adverse action against the officer or employee; or
- (3) pursuant to a voluntary demotion.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 1203.⁵² (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to re-employment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 1204.⁵³ (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the

⁴⁸Sec. 3523(b) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) added subsec. (c).

⁴⁹Sec. 3512(a)(1)(A) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 17, 1997."

⁵⁰Sec. 3512(a)(1)(B) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out "on or after that date" at this point.

⁵¹Sec. 3512(a)(1)(C) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out "the day before the date of enactment" and inserted in lieu thereof "that date". As added in 1997, the phrase had read "the day before that date of enactment".

⁵²22 U.S.C. 3643.

⁵³22 U.S.C. 3644.

amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205.⁵⁴ The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any fund⁵⁵ from which the Commission has expended such amount.

SEC. 1206.⁵⁶ * * * [Repealed—1999]

EDUCATIONAL TRAVEL BENEFITS

SEC. 1207.⁵⁷ * * * [Repealed—1999]

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

SEC. 1208.⁵⁸ The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 or Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

APPLICABILITY OF CERTAIN BENEFITS

SEC. 1209.⁵⁹ Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

- (1) who is not a citizen of the United States;

⁵⁴ 22 U.S.C. 3645.

⁵⁵ Sec. 3529(1) of Public Law 104-106 (110 Stat. 642) struck out "appropriation" and inserted in lieu thereof "fund".

⁵⁶ Formerly at 22 U.S.C. 3646. Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) repealed sec. 1206, relating to cost of living allowance, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

⁵⁷ Formerly at 22 U.S.C. 3647. Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) repealed sec. 1207, relating to educational travel benefits, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

⁵⁸ 22 U.S.C. 3648.

⁵⁹ 22 U.S.C. 3649. Sec. 3527 of Public Law 104-201 (110 Stat. 2861) amended and restated sec. 1209.

- (2) whose initial appointment by the Commission occurs after October 1, 1979; and
- (3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

Subchapter II—Wage and Employment Practices

AIR TRANSPORTATION

SEC. 1210.⁶⁰ (a) Notwithstanding any other provision of law (except subsection (b)),⁶¹ the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

(b) An⁶² official or employee of the Commission who is a citizen of the Republic of Panama⁶³ may elect, for security or other reasons, to travel by an air carrier holding a certificate under section 41102 of title 49, United States Code.

DEFINITIONS

SEC. 1211.⁶⁴ As used in this subchapter—

- (1) “agency” means—
- (A) the Commission, and
- (B)⁶⁵ any other Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b)⁶⁶ of this Act;
- (2) “position” means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and
- (3) “employee” means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 1212.⁶⁷ (a) The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

⁶⁰ 22 U.S.C. 3650. Originally added by sec. 5(b)(1) of Public Law 99-223 (99 Stat. 1739), sec. 1210 was amended and restated by sec. 3528 of Public Law 104-201 (110 Stat. 2861). Sec. 3524 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) subsequently struck out subsecs. (a), (b), and (c) of the section, redesignated remaining subsec. (d)(1) as subsec. (a), subsec. (d)(2) as subsec. (b), and restated the section catchline from “TRAVEL AND TRANSPORTATION” to “AIR TRANSPORTATION”.

⁶¹ Sec. 3524(b)(1)(A) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out “paragraph (2)” and inserted in lieu thereof “subsection (b)”.

⁶² Sec. 3524(b)(1)(B)(i) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out “Notwithstanding paragraph (1), an” and inserted in lieu thereof “An”.

⁶³ Sec. 3524(b)(1)(B)(ii) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out “referred to in paragraph (1)” and inserted in lieu thereof “who is a citizen of the Republic of Panama”.

⁶⁴ 22 U.S.C. 3651.

⁶⁵ Sec. 3529 of Public Law 104-201 (110 Stat. 2862) amended and restated sec. 1211(1)(B).

⁶⁶ Sec. 3548(b)(1) of Public Law 104-201 (110 Stat. 2869) struck out “section 1212(B)(2)” and inserted in lieu thereof “section 1212(b)”.

⁶⁷ 22 U.S.C. 3652. Sec. 3530(a) of Public Law 104-201 (110 Stat. 2862) amended and restated sec. 1212. Sec. 3530(b) of that Act further provided:

“(b) SAVINGS PROVISIONS.—The Panama Canal Employment System and all elections, rules, regulations, and orders relating thereto, as last in effect before the amendment made by sub-

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service;

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

(5) not be subject to the provisions of title 5, United States Code, unless specifically made applicable by this Act.

(b)(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

(3) Notwithstanding any other provision of this Act, the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104-201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999,⁶⁸ this subchapter, as in effect on September 22, 1996,⁶⁹ shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of the⁷⁰ agency or the Institution, respectively.

(c) The Commission may exclude any employee or position from coverage under any provision of this subchapter, other than the interchange rights extended under subsection (a)(4).

section (a) takes effect, shall continue in effect, according to their terms, until modified, terminated, or superseded under section 1212 of the Panama Canal Act of 1979, as amended by subsection (a).”

⁶⁸Sec. 3523(d) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out “or the Panama Canal Act Amendments of 1996” and inserted in lieu thereof “, the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104-201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997”. Sec. 3507(c) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) struck out “the Panama Canal Transition Facilitation Act of 1997” and inserted in lieu thereof “the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999”.

⁶⁹Sec. 3550(d)(3) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out “as last in effect before the effective date of section 3530 of the Panama Canal Act Amendments of 1996” and inserted in lieu thereof “as in effect on September 22, 1996”.

⁷⁰Sec. 3512(a)(2) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) inserted “the” after “by the head of”.

EMPLOYMENT STANDARDS

SEC. 1213.⁷¹ The Commission⁷² shall establish written standards for—

- (1) determining the qualifications and fitness of employees and of candidates for employment in positions; and
- (2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subchapter, and regulations prescribed thereunder, and the Panama Canal Employment System.

SEC. 1214.⁷³ * * * [Repealed—1996]

SEC. 1215.⁷⁴ * * * [Repealed—1997]

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 1216.⁷⁵ The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1202⁷⁶ of the Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

SEC. 1217.⁷⁷ (a) * * * In addition to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c)⁷⁸ (1) The Commission may pay a recruitment bonus to an individual who is newly appointed to a position with the Commission, or a relocation bonus to an employee of the Commission who must relocate to accept a position, if the Commission determines that the Commission would be likely, in the absence of such a bonus, to have difficulty in filling the position.

(2) A recruitment or relocation bonus may be paid to an employee under this subsection only if the employee enters into an agreement with the Commission to complete a period of employment es-

⁷¹ 22 U.S.C. 3653.

⁷² Sec. 3531 of Public Law 104-201 (110 Stat. 2863) struck out "The head of each agency" and inserted in lieu thereof "The Commission".

⁷³ Formerly at 22 U.S.C. 3654. Sec. 3533 of Public Law 104-201 (110 Stat. 2863) repealed sec. 1214, relating to an interim application of a canal zone merit system.

⁷⁴ Formerly at 22 U.S.C. 3655. Sec. 3523(a)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2064) repealed sec. 1215, relating to basic pay.

⁷⁵ 22 U.S.C. 3656.

⁷⁶ Sec. 3523(c)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out "1215" and inserted in lieu thereof "1202".

⁷⁷ 22 U.S.C. 3657. Sec. 3533 of Public Law 104-201 (110 Stat. 2863) struck out former subsec. (d) of this section, which related to the inapplicability of certain overseas differentials and pay allowances to those employed by an agency whose duty station is Panama. Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) struck out subsec. (a), relating to recruitment compensation of essential personnel, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

⁷⁸ Sec. 3525(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2066) redesignated subsec. (c) as subsec. (e), and added new subsecs. (c) and (d).

established in the agreement. If the employee voluntarily fails to complete such period of employment or is separated from service in such employment as a result of an adverse action before the completion of such period, the employee shall repay the entire amount of the bonus.

(3) A recruitment or relocation bonus under this subsection may be paid as a lump sum. A bonus under this subsection may not be considered to be part of the basic pay of an employee.

(d)⁷⁸ (1) The Commission may pay a retention bonus to an employee of the Commission if the Commission determines that—

(A) the employee has unusually high or unique qualifications and those qualifications make it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date, or the Commission otherwise has a special need for the services of the employee making it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date; and

(B) the employee would be likely to leave employment with the Commission before the end of that period if the retention bonus is not paid.

(2) A retention bonus under this subsection—

(A) shall be in a fixed amount;

(B) shall be paid on a pro rata basis (over the period specified by the Commission as essential for the retention of the employee), with such payments to be made at the same time and in the same manner as basic pay; and

(C) may not be considered to be part of the basic pay of an employee.

(3) A decision by the Commission to exercise or to not exercise the authority to pay a bonus under this subsection shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

(e)⁷⁸ Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay of the individual to whom the compensation is paid.⁷⁹

QUARTERS ALLOWANCE

SEC. 1217a.⁸⁰ (a) Notwithstanding paragraphs (2) and (3) of section 1211 of this Act, as used in this section—

⁷⁹ Sec. 3525(a)(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2066) struck out “for the same or similar work performed in the United States by individuals employed by the Government of the United States” and inserted in lieu thereof “of the individual to whom the compensation is paid”

⁸⁰ 22 U.S.C. 3657a. Executive Order 12520 (June 19, 1985; 50 F.R. 25683) provided the following:

“QUARTERS ALLOWANCES TO DEPARTMENT OF DEFENSE EMPLOYEES IN PANAMA

“By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1217a of the Panama Canal Act of 1979 (22 U.S.C. 3657a), it is hereby ordered as follows:

“Section 1. The Secretary of Defense is authorized to prescribe the regulations referred to in section 1217a of the Panama Canal Act of 1979, relating to quarters allowances.

Continued

(1) "position" means a civilian position; and

(2) "employee" means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

(b) Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

(2) any other employee who is a citizen of the United States and who (before, on, or after the effective date of this section) is or was recruited within the United States;

for whom adequate Government owned or leased quarters are not made available.

(c) The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

(1) the lesser of—

(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

(d) The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 1212(b) of this Act is then in effect.

BENEFITS BASED ON BASIC PAY

SEC. 1218.⁸¹ For the purposes of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

⁸⁰Sec. 2. The regulations prescribed under Section 1 shall be consistent with Article VII(4) of the Agreement in Implementation of Article IV of the Panama Canal Treaty and with all other relevant provisions of the Panama Canal Treaty and related agreements."

⁸¹22 U.S.C. 3658. Sec. 3507(b) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) provided the following:

"(b) SAVINGS PROVISION FOR BASIC PAY.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2)(A) and (B) of that Act had been repealed effective 12:00 noon, December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999."

- (2)⁸² benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, relating to retirement;
- (3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;
- (4) amounts of overtime pay or other premium pay;
- (5) annual leave benefits; and
- (6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 1202⁸³ of this Act plus the amount of any additional compensation provided under section 1217(a)⁸³ of this Act.

SEC. 1219.⁸⁴ * * * [Repealed—1997]

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY
LEVEL

SEC. 1220.⁸⁵ An employee may request at any time that the employee's agency—

- (1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and
- (2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 1221.⁸⁶ (a) Subject to the provisions of this chapter, the Commission⁸⁷ shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURES; FINALITY OF DECISIONS

SEC. 1222.⁸⁸ (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed

⁸² Sec. 3534 of Public Law 104-201 (110 Stat. 2863) amended and restated para. (2).

⁸³ Sec. 3523(c)(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out "1215" and "1217" and inserted, respectively, "1202" and "1217(a)".

⁸⁴ Formerly at 22 U.S.C. 3659. Sec. 3523(a)(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2064) repealed sec. 1219, relating to salary protection upon conversion of pay rate.

⁸⁵ 22 U.S.C. 3660.

⁸⁶ 22 U.S.C. 3661.

⁸⁷ Sec. 3548 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2073) struck out "President" and inserted in lieu thereof "Commission".

⁸⁸ 22 U.S.C. 3662.

by, or under the authority of, the Commission⁸⁷) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

- (1) prepare a written decision on the appeal;
- (2) transmit its decision to the agency concerned; and
- (3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

SEC. 1223.⁸⁹ * * * [Repealed—1998]

APPLICABILITY OF TITLE 5, UNITED STATES CODE

SEC. 1224.⁹⁰ The following provisions of title 5, United States Code, apply to the Panama Canal Commission:

- (1) Part I of title 5 (relating to agencies generally).
- (2) Chapter 21 (relating to employee definitions).
- (3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.
- (4) All provisions relating to preference eligibles.
- (5) Section 5514 (relating to offset from salary).
- (6) Section 5520a (relating to garnishments).
- (7) Sections 5531-5535 (relating to dual pay and employment).
- (8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).
- (9) Subchapter IX of chapter 55 (relating to severance and back pay).
- (10) Chapter 59 (relating to allowances).
- (11) * * *⁹¹
- (12) Section 6323 (relating to military leave; Reserves and National Guardsmen).
- (13) Chapter 71 (relating to labor relations).
- (14) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all

⁸⁹ Formerly at 22 U.S.C. 3663. Sec. 3508(a) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) repealed sec. 1223, relating to establishment of a central examining office. Previously, sec. 3535 of Public Law 104-201 (110 Stat. 2863) amended and restated sec. 1223.

⁹⁰ 22 U.S.C. 3664. Sec. 3536 of Public Law 104-201 (110 Stat. 2864) amended and restated sec. 1224. Sec. 3524(a)(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) struck out para. (10), relating to 5 U.S.C. chapter 57, and renumbered paras. (11) through (20) as paras. (10) through (19), respectively.

⁹¹ Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) struck out para. (11), which read "Chapter 63 (relating to leave for CONUS employees).", effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(15) Chapter 81 (relating to compensation for work injuries).

(16) Chapters 83 and 84 (relating to retirement).

(17) Chapter 85 (relating to unemployment compensation).

(18) Chapter 87 (relating to life insurance).

(19) Chapter 89 (relating to health insurance).

SEC. 1225.⁹² * * * [Repealed—1997]

Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 1231.⁹³ (a)⁹⁴ (1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2)⁹⁵ The terms and conditions of employment referred to in paragraph (1) of this subsection are the following:

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(I) reduction-in-force rights;

⁹²Formerly at 22 U.S.C. 3665. Sec. 3523(a)(3) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2065) repealed sec. 1225, relating to minimum level of pay; minimum annual increases.

⁹³22 U.S.C. 3671.

⁹⁴Sec. 3537 of Public Law 104-201 (110 Stat. 2864) repealed subsec. (a)(3), which had provided, in part, "(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of this paragraph, would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments."

⁹⁵Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) struck out subparas. (A) (relating to rate of basic pay), (B) (tropical differential), (F) (leave and travel), (G) (transportation and repatriation benefits), and (H) (group health and life insurance), effective 11:59 p.m. (Eastern Standard Time), December 30, 1999. rates of basic pay;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and positions classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) severance pay benefits.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title 5) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on September 30, 1979.⁹⁶ A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or per-

⁹⁶Sec. 3550(d)(2)(C) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "the day before the effective date of this Act" and inserted in lieu thereof "September 30, 1979".

formance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

- (i) more than once in any 10-year period;
- (ii) unless the teacher has completed 7 years of service as a teacher; and
- (iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sabbatical), the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) Sections 5595(a)(2)(iii), 5724a(a) (3) and (4), and 8102(b) of title 5, United States Code, are each amended by striking out “Canal Zone” each place it appears and inserting in lieu thereof “areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)”.

PLACEMENT

SEC. 1232.⁹⁷ (a) Any citizen of the United States—

- (1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;
 - (2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and
 - (3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;
- shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

- (1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;
- (2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

⁹⁷ 22 U.S.C. 3672.

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;
shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.

TRANSITION SEPARATION INCENTIVE PAYMENTS

SEC. 1233.⁹⁸ (a) In applying to the Commission and employees of the Commission the provisions of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104-208; 110 Stat. 3009-383), relating to voluntary separation incentives for employees of certain Federal agencies (in this section referred to as "section 663")—

(1) the term "employee" shall mean an employee of the Commission who has served in the Republic of Panama in a position with the Commission for a continuous period of at least three years immediately before the employee's separation under an appointment without time limitation and who is covered under the Civil Service Retirement System or the Federal Employees' Retirement System under subchapter III of chapter 83 or chapter 84, respectively, of title 5, United States Code, other than—

(A) an employee described in any of subparagraphs (A) through (F) of subsection (a)(2) of section 663; or

(B) an employee of the Commission who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 1217(c) of this Act or who, within the 12-month period preceding the date of separation, received a retention bonus under section 1217(d) of this Act;

(2) the strategic plan under subsection (b) of section 663 shall include (in lieu of the matter specified in subsection (b)(2) of that section)—

(A) the positions to be affected, identified by occupational category and grade level;

(B) the number and amounts of separation incentive payments to be offered; and

(C) a description of how such incentive payments will facilitate the successful transfer of the Panama Canal to the Republic of Panama;

(3) a separation incentive payment under section 663 may be paid to a Commission employee only to the extent necessary to facilitate the successful transfer of the Panama Canal by the

⁹⁸ 22 U.S.C. 3673. Added by sec. 3526 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2067)).

United States of America to the Republic of Panama as required by the Panama Canal Treaty of 1977;

(4) such a payment—

(A) may be in an amount determined by the Commission not to exceed \$25,000; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of an eligible employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section or during the period beginning on October 1, 1998, and ending on December 31, 1998;

(5) in the case of not more than 15 employees who (as determined by the Commission) are unwilling to work for the Panama Canal Authority after the Canal Transfer Date and who occupy critical positions for which (as determined by the Commission) at least two years of experience is necessary to ensure that seasoned managers are in place on and after the Canal Transfer Date, such a payment (notwithstanding paragraph (4))—

(A) may be in an amount determined by the Commission not to exceed 50 percent of the basic pay of the employee; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of such an employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section; and

(6) the provisions of subsection (f) of section 663 shall not apply.

(b) A decision by the Commission to exercise or to not exercise the authority to pay a transition separation incentive under this section shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

Subchapter IV—Retirement

EARLY RETIREMENT ELIGIBILITY

SEC. 1241.⁹⁹ * * *

EARLY RETIREMENT COMPUTATION

SEC. 1242.¹⁰⁰ * * *

RETIREMENT UNDER SPECIAL TREATY PROVISIONS

SEC. 1243.¹⁰¹ (a)(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Sec-

⁹⁹Sec. 1241 amended sec. 8336 of title 5, United States Code, to clarify eligibility requirements for early retirement of Panama Canal Company and Commission employees.

¹⁰⁰Sec. 1242 amended sec. 8339(d) of title 5, United States Code, to clarify early retirement computation for Panama Canal Company and Commission employees.

¹⁰¹22 U.S.C. 3681.

retary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c)(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively,¹⁰² from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 1244.¹⁰³ * * *

ADMINISTRATION OF CERTAIN DISABILITY BENEFITS

SEC. 1245.¹⁰⁴ (a)(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agree-

¹⁰²Sec. 3550(d)(6) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "retroactivity" and inserted in lieu thereof "retroactively".

¹⁰³Sec. 1244 amended sec. 8384 of title 5, United States Code, by adding at the end thereof the following new subsection (i).

¹⁰⁴22 U.S.C. 3682. Sec. 3538 of Public Law 104-201 (110 Stat. 2864) amended and restated text preceding subsec. (b). Sec. 3548(c)(2) of that Act struck out "CASH RELIEF TO CERTAIN FORMER EMPLOYEES" and inserted in lieu thereof "ADMINISTRATION OF CERTAIN DISABILITY BENEFITS" as the section catchline. Subsec. (a) formerly had read as follows:

"(a) The Commission, under the regulation prescribed by the President pursuant to the Act entitled 'An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act', approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed \$1.50 per month for each year of service of the employees so furnished relief, with a maximum of \$45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service

ment with the Commission, under the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

(2) Subject to subsection (b), cash relief under this subsection may not exceed \$1.50 per month for each year of service of the employees so furnished relief, with a maximum of \$45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of \$20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama."

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

SEC. 1246.¹⁰⁵ * * * [Repealed—1996]

Subchapter V—Leave

SEC. 1251.¹⁰⁶ * * * [Repealed—1996]

Subchapter VI—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATION BOARD; RELATED EMPLOYEES

SEC. 1261.¹⁰⁷ (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

¹⁰⁵ Formerly at 22 U.S.C. 3683. Sec. 3546(a)(6) of Public Law 104-201 (110 Stat. 2867) repealed sec. 1246, relating to appliances (such as artificial limbs) for employees injured before September 7, 1916.

¹⁰⁶ Part of sec. 1251 amended sec. 6322(a) of title 5, United States Code. Sec. 3546(a)(7) of Public Law 104-201 (110 Stat. 2868) repealed the remaining portion of sec. 1251, relating to leave for jury or witness service.

¹⁰⁷ 22 U.S.C. 3691.

Subchapter VII—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

SEC. 1271.¹⁰⁸ (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of “employee” shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship;¹⁰⁹

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor’s position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors; and¹⁰⁹

(3)¹⁰⁹ any negotiated grievance procedures under section 7121 of title 5, United States Code, including any provisions relating to binding arbitration, shall, with respect to any personnel action to which subchapter II of chapter 75 of such title applies (as determined under section 7512 of such title), be available to the same extent and in the same manner as if employees of the Panama Canal Commission were not excluded from such subchapter under section 7511(b)(8) of such title.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

(c)¹¹⁰ (1) This subsection applies to any matter that becomes the subject of collective bargaining between the Commission and the exclusive representative for any bargaining unit of employees of the Commission during the period beginning on the date of the enactment of this subsection and ending on the Canal Transfer Date.

(2)(A) The resolution of impasses resulting from collective bargaining between the Commission and any such exclusive representative during that period shall be conducted in accordance with such procedures as may be mutually agreed upon between the Commission and the exclusive representative (without regard to any otherwise applicable provisions of chapter 71 of title 5, United States

¹⁰⁸ 22 U.S.C. 3701.

¹⁰⁹ Sec. 3505 of the National Defense Authorization Act for Fiscal Year 1994 (title XXXV—Panama Canal Commission Authorization Act for Fiscal Year 1994; Public Law 103-160; 107 Stat. 1966), struck out “and” at the end of para. (1); struck out “supervisors.” at the end of para. (2), inserting in lieu thereof “supervisors; and”; and added new para. (3).

Sec. 3506 of that Act further provided that paragraph (3) “shall take effect on the date of the enactment of this Act [November 30, 1993] and shall apply with respect to grievances arising on or after such date.”

¹¹⁰ Sec. 3527 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2068) added subsec. (c).

Code). Such mutually agreed upon procedures shall become effective upon transmittal by the Chairman of the Supervisory Board of the Commission to the Congress of notice of the agreement to use those procedures and a description of those procedures.

(B) The Federal Services Impasses Panel shall not have jurisdiction to resolve any impasse between the Commission and any such exclusive representative in negotiations over a procedure for resolving impasses.

(3) If the Commission and such an exclusive representative do not reach an agreement concerning a procedure for resolving impasses with respect to a bargaining unit and transmit notice of the agreement under paragraph (2) on or before July 1, 1998, the following shall be the procedure by which collective bargaining impasses between the Commission and the exclusive representative for that bargaining unit shall be resolved:

(A) If bargaining efforts do not result in an agreement, either party may timely request the Federal Mediation and Conciliation Service to assist in achieving an agreement.

(B) If an agreement is not reached within 45 days after the date on which either party requests the assistance of the Federal Mediation and Conciliation Service in writing (or within such shorter period as may be mutually agreed upon by the parties), the parties shall be considered to be at an impasse and the Federal Mediation and Conciliation Service shall immediately notify the Federal Services Impasses Panel of the Federal Labor Relations Authority, which shall decide the impasse.

(C) If the Federal Services Impasses Panel fails to issue a decision within 90 days after the date on which notice under subparagraph (B) is received by the Panel (or within such shorter period as may be mutually agreed upon by the parties), the efforts of the Panel shall be terminated.

(D) In such a case, the Chairman of the Panel (or another member in the absence of the Chairman) shall immediately determine the matter by a drawing (conducted in such manner as the Chairman (or, in the absence of the Chairman, such other member) determines appropriate) between the last offer of the Commission and the last offer of the exclusive representative, with the offer chosen through such drawing becoming the binding resolution of the matter.

(4) In the case of a notice of agreement described in paragraph (2)(A) that is transmitted to the Congress as described in the second sentence of that paragraph after July 1, 1998, the impasse resolution procedures covered by that notice shall apply to any impasse between the Commission and the other party to the agreement that is unresolved on the date on which that notice is transmitted to the Congress.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

SEC. 1301.¹¹¹ * * * [Repealed—1996]

PANAMA CANAL REVOLVING FUND

SEC. 1302.¹¹² (a) There is established in the Treasury of the United States a revolving fund to be known as ‘Panama Canal Revolving Fund’. The Panama Canal Revolving Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for the following purposes:¹¹³

- (1) The hire of passenger motor vehicles and aircraft.
- (2) Uniforms or allowances therefor.
- (3) Official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator.
- (4) The operation of guide services.
- (5) A residence for the Administrator.
- (6) Disbursements by the Administrator for employee and community projects.
- (7) The procurement of expert and consultant services.
- (8) Promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry.
- (9) The purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.
- (10)¹¹⁴ Payment to the Panama Canal Authority, not later than the Canal Transfer Date, of such amount as is computed by the Commission to be the future amount of severance pay to be paid by the Panama Canal Authority to employees whose employment with the Authority is terminated, to the extent that such severance pay is attributable to periods of service performed with the Commission before the Canal Transfer Date (and assuming for purposes of such computation that the Panama Canal Authority, in paying severance pay to termi-

¹¹¹Formerly at 22 U.S.C. 3711. Sec. 3546(a)(8) of Public Law 104-201 (110 Stat. 2868) repealed sec. 1301, relating to Canal Zone Government funds.

¹¹²22 U.S.C. 3712. Sec. 3539 of Public Law 104-201 (110 Stat. 2865) amended and restated sec. 1302.

Previously, sec. 5422 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-271) retitled sec. 1302 and inserted new text for subsecs. (a) through (e). Other amendments to the earlier text were enacted at sec. 9 of Public Law 100-705 (102 Stat. 4687), sec. 3521(b)(1) of Public Law 102-484 (106 Stat. 2657), and sec. 3525 of Public Law 104-106 (110 Stat. 640).

¹¹³Sec. 3528(b)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2068) struck out “for—” and inserted in lieu thereof “for the following purposes:”. Para. (2) of that subsec. amended paras. (1) through (9) by capitalizing the first letter of each word in each para. Para. (3) of that subsec. struck out a semicolon at the end of each of paras. (1) through (7), and inserted in lieu thereof a period. Para. (4) of that subsec. struck out “; and” at the end of para. (8) and inserted in lieu thereof a period.

¹¹⁴Sec. 3528(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2069) added para. (10).

nated employees, will provide for crediting of periods of service with the Commission).

(b)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303, no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

(2) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year; in excess of—

(A) the amount of revenues deposited in the Panama Canal Revolving Fund and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

(C) the \$100,000,000 borrowing authority provided for in section 1304 of this Act.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

(c) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or such other place and in such manner as the Commission and the Secretary may agree.

(d)(1) It is the sense of the Congress that the additional costs resulting from the implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs (\$870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of \$205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately \$665,700,000, plus appropriate adjustments for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

EMERGENCY AUTHORITY

SEC. 1303.¹¹⁵ If authorizing legislation described in section 1302(b)(1)¹¹⁶ has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects.¹¹⁷ The authority of this section may be exercised only until authorizing legislation described in section 1302(b)(1)¹¹⁶ is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.

BORROWING AUTHORITY

SEC. 1304.¹¹⁸ (a) The Panama Canal Commission may borrow from Treasury, for any of the purposes of the commission, not more than \$100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

(2) which may be redeemable at the option of the Commission before maturity.

(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amount shall decrease such investment.

(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.

DISSOLUTION OF COMMISSION

SEC. 1305.¹¹⁹ (a)(1) The Commission shall conduct a study of—

(A) the costs associated with the dissolution of the Commission, including the composition, location, and costs of the office authorized to be established under subsection (b); and

¹¹⁵ 22 U.S.C. 3713. Sec. 5423 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-273) amended the title and substantially restated sec. 1303. Earlier text authorized the Secretary of the Treasury to establish and maintain a Panama Canal Emergency Fund.

¹¹⁶ Sec. 3548(b)(2) of Public Law 104-201 (110 Stat. 2869) struck out “section 1302(c)(1)” and inserted in lieu thereof “section 1302(b)(1)”.

¹¹⁷ Sec. 3529(2) of Public Law 104-106 (110 Stat. 642) struck out “The authority of this section may not be used for administrative expenses.” at this point.

¹¹⁸ 22 U.S.C. 3714. Sec. 5424(a) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-273) added sec. 1304.

¹¹⁹ 22 U.S.C. 3714a. Added by sec. 3521(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2656).

(B) costs and liabilities incurred or administered by the Commission that will not be paid before the date of that dissolution.

(2) The Commission shall submit to the Congress, by not later than September 30, 1996, a report on the findings and conclusions of the study under this subsection. The report shall include an estimate of the period of time which may be required to close out the affairs of the Commission after the termination of the Panama Canal Treaty of 1977.

(b) The Commission shall during fiscal year 1998 establish an office to close out the affairs of the Commission that are still pending after the termination of the Panama Canal Treaty of 1977.

(c)(1) There is established in the Treasury of the United States a fund to be known as the "Panama Canal Commission Dissolution Fund" (hereinafter in this section referred to as the "Fund"). The Fund shall be managed by the Commission until the termination of the Panama Canal Treaty of 1977 and by the office established under subsection (b) thereafter.

(2)(A) Subject to paragraph (5), the Fund shall be available after September 30, 1998, to pay—

(i) the costs of operating the office established under subsection (b); and

(ii) the costs and liabilities associated with dissolution of the Commission, including such costs incurred or identified after the termination of the Panama Canal Treaty of 1977.

(B) Payments from the Fund made during the period beginning on October 1, 1998, and ending with the termination of the Panama Canal Treaty of 1977 shall be subject to the approval of the Board provided for in section 1102.

(3) The Fund shall consist of—

(A) such amounts as may be deposited into the Fund by the Commission, from amounts collected as toll receipts, to pay the costs described in paragraph (2); and

(B) amounts credited to the Fund under paragraph (4).

(4)(A) The Secretary of the Treasury shall invest excess amounts in the Fund in public debt securities with maturities suitable to the needs of the Fund, as determined by the manager of the Fund.

(B) Securities invested under subparagraph (A) shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(C) Interest earned on securities invested under subparagraph (A) shall be credited to and form part of the Fund.

(5)(A)¹²⁰ Amounts in the Fund may not be obligated or expended in any fiscal year unless the obligation or expenditure is specifically authorized by law.

(B)¹²⁰ The office established by subsection (b) is authorized to expend or obligate funds from the Fund for the purposes enumerated in clauses (i) and (ii) of paragraph (2)(A) until October 1, 2004.

¹²⁰Sec. 3504 of the Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV of Public Law 106-65; 113 Stat. 975) added subpara. designation "(A)" and added subpara. (B).

(6) The Fund shall terminate on October 1, 2004. Amounts in the Fund on that date shall be deposited in the general fund of the Treasury of the United States.

PRINTING

SEC. 1306.¹²¹ (a) Sections 501 through 517 and 1101 through 1123¹²² of title 44, United States Code, shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

(b) This section shall not affect the Commission's authority, under chapter 5 of title 44, United States Code, to operate a field printing plant.

Subchapter II—Accounting Policies and Audits

ACCOUNTING POLICIES

SEC. 1311.¹²³ (a) The Commission shall establish and maintain its accounts pursuant to chapter 91 of title 31, United States Code,¹²⁴ and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide the depreciation of such assets be recorded ratably over their service lives.

SEC. 1312.¹²⁵ * * * [Repealed—1995]

¹²¹ 22 U.S.C. 3714b. Sec. 3540 of Public Law 104-201 (110 Stat. 2866) added sec. 1306.

¹²² Sec. 3549 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2073) struck out "Section 501" and inserted in lieu thereof "Sections 501 through 517 and 1101 through 1123".

¹²³ 22 U.S.C. 3721.

¹²⁴ Sec. 3541(a) of Public Law 104-201 (110 Stat. 2866) struck out "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.," and inserted in lieu thereof "chapter 91 of title 31, United States Code,".

¹²⁵ Formerly at 22 U.S.C. 3722. Repealed by sec. 2201(a) of Public Law 104-66 (109 Stat. 707). Sec. 1312 required the Commission to report annually to the President and to the Congress on finances, maintenance, and operation of the Panama Canal during the preceding fiscal year.

AUDITS

SEC. 1313.¹²⁶ (a) Notwithstanding any other provision of law, and subject to subsection (c),¹²⁷ financial transactions¹²⁸ of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the “Comptroller General”).¹²⁹ In conducting such audit,¹³⁰ the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representative shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Any such audit¹³¹ shall first be conducted with respect to the fiscal year in which this Act becomes effective. An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31, United States Code.¹³²

(b) Subject to subsection (c),¹²⁷ the Comptroller General¹³³ shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Commission established pursuant to this chapter.

(2) a statement of income and expenses,

(3) a statement of sources and application of funds,

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

¹²⁶ 22 U.S.C. 3723. Section heading, amended by sec. 3526(a)(1) of Public Law 104-106 (110 Stat. 640) formerly read “AUDITS BY THE COMPTROLLER GENERAL OF THE UNITED STATES”.

¹²⁷ Sec. 3512(a)(3) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out “subsection (d)” and inserted in lieu thereof “subsection (c)”.

¹²⁸ Sec. 3526(a)(2)(A) of Public Law 104-106 (110 Stat. 640) struck out “Financial transactions” and inserted in lieu thereof “Notwithstanding any other provision of law, and subject to subsection (d), financial transactions”.

¹²⁹ Sec. 3526(a)(2)(B) of Public Law 104-106 (110 Stat. 640) struck out “pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)”. Sec. 3541(b) of Public Law 104-201 (110 Stat. 2867) made a similar amendment, striking out “the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)” in subsections (a) and (c) and inserting in lieu thereof “chapter 91 of title 31, United States Code.”. This second amendment has not been executed here.

¹³⁰ Sec. 3526(a)(2)(C) of Public Law 104-106 (110 Stat. 640) struck out “any audit pursuant to such Act” and inserted in lieu thereof “such audit”.

¹³¹ Sec. 3526(a)(2)(D) of Public Law 104-106 (110 Stat. 640) struck out “An audit pursuant to such Act” and inserted in lieu thereof “Any such audit”.

¹³² Sec. 3526(a)(2)(E) of Public Law 104-106 (110 Stat. 640) added this last sentence.

¹³³ Sec. 3526(a)(3) of Public Law 104-106 (110 Stat. 641) struck out “The Comptroller General” and inserted in lieu thereof “Subject to subsection (d), the Comptroller General”. Subsequently, sec. 3512(a)(3) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out “subsection (d)” and inserted in lieu thereof “subsection (c)”.

The report shall identify specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c)¹³⁴ At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

(d)¹³⁴ In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (c))¹³³ shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.

Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321.¹³⁵ (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before October 1, 1979,¹³⁶ and

(2) providing the services related thereto to the categories of persons to which such services were provided before October 1, 1979.¹³⁷

¹³⁴ Sec. 3526(a)(4) of Public Law 104-106 (110 Stat. 641) added these subsections as subsections (d) and (e). Sec. 3546(a)(9) of Public Law 104-201 (110 Stat. 2868) subsequently repealed subsection (c), and sec. 3546(b) of that Act redesignated subsections (d) and (e) as subsections (c) and (d).

¹³⁵ 22 U.S.C. 3731.

¹³⁶ Sec. 3550(d)(2)(A) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

¹³⁷ Sec. 3550(d)(2)(B) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) struck out "such effective date" and inserted in lieu thereof "October 1, 1979".

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The¹³⁸ funds of the Commission shall be available for such reimbursements on behalf of—

- (1) employees of the Commission, and
- (2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e)¹³⁹ * * * [Repealed—1999]

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the “Canal Zone College”. Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

(h)¹⁴⁰ Except as expressly provided in this Act, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, United States Code, nor may funds be authorized or appropriated for any function other than Panama Canal Commission activities.

¹³⁸Sec. 3529(3) of Public Law 104-106 (110 Stat. 642) struck out “appropriations or”.

¹³⁹Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2269) repealed subsec. (e), relating to the defraying of health care and education costs, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999. Previously, subsec. (e) was comprehensively amended and restated by sec. 5(c) of Public Law 99-223 (99 Stat. 1739).

¹⁴⁰Sec. 8 of Public Law 100-705 (102 Stat. 4686) added subsec. (h).

Subchapter IV—Postal Matters

POSTAL SERVICE

SEC. 1331.¹⁴¹ The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

(b) Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders.

(c) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

Subchapter V—Accounts With the Republic of Panama

PAYMENTS TO THE REPUBLIC OF PANAMA

SEC. 1341.¹⁴² (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the service described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organiza-

¹⁴¹ 22 U.S.C. 3741. Sec. 3543 of Public Law 104-201 (110 Stat. 2867) amended and restated sec. 1331.

¹⁴² 22 U.S.C. 3751.

tions and businesses operating, and citizens of the United States living, in the Canal Zone before the effective date of this Act.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) As provided in section 1602(b) of this Act, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programmed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 1603 of this Act, (5) reimbursement to the Treasury of the United States for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 1321 of this Act, (6) any costs of Treaty implementation associated with the maintenance and operation of the Panama Canal, and (7) amounts programmed to meet working capital requirements.¹⁴³

(f) The prohibitions contained in this section and in sections 1302(b)¹⁴⁴ and 1503 of this Act shall apply notwithstanding any other provisions of law authorizing transfers of funds between accounts, reprogramming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g)¹⁴⁵ Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and this section.

¹⁴³Sec. 5426 of Public Law 100-203 (101 Stat. 1330-274) added clause (7).

¹⁴⁴Sec. 3548(b)(3) of Public Law 104-201 (110 Stat. 2869), as amended by sec. 3512(b) of Public Law 105-261 (112 Stat. 2271), struck out "sections 1302(c)" and inserted in lieu thereof "sections 1302(b)". Subsequently, sec. 3550(d)(7) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2074) made the same amendment.

¹⁴⁵Sec. 6 of Public Law 99-368 (100 Stat. 776) added subsec. (g).

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

SEC. 1342.¹⁴⁶ (a)¹⁴⁷ The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

(b) The Commission may provide office space, equipment, supplies, personnel, and other in-kind services to the Panama Canal Authority on a nonreimbursable basis.

(c) Any executive department or agency of the United States may, on a reimbursable basis, provide to the Panama Canal Authority materials, supplies, equipment, work, or services requested by the Panama Canal Authority, at such rates as may be agreed upon by that department or agency and the Panama Canal Authority.

DISASTER RELIEF

SEC. 1343.¹⁴⁸ If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend funds available¹⁴⁹ to the Commission for such purpose, and utilize or furnish materials, supplies, equipment and services for relief, assistance, and protection.

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFER AND TAX EXPENDITURES

SEC. 1344.¹⁵⁰ (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act, the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

¹⁴⁶ 22 U.S.C. 3752.

¹⁴⁷ Sec. 3542 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) added subsec. designation "(a)", and added new subsecs. (b) and (c).

¹⁴⁸ 22 U.S.C. 3753.

¹⁴⁹ Sec. 5428(b) of Public Law 100-203 (101 Stat. 1330-274) struck out "available funds appropriated" and inserted in lieu thereof "funds available".

¹⁵⁰ 22 U.S.C. 3754.

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditures after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds available to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Revolving Fund;¹⁵¹ and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401.¹⁵² (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b)¹⁵³ The Commission may pay not more than \$50,000 on any claim described in subsection (a).

(c) An award made to a claimant under this section shall be payable out of any moneys¹⁵⁴ made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall be against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the

¹⁵¹The words "available" and "Revolving Fund" were added in lieu of "appropriated" and "Commission Fund" by sec. 5428(c) of Public Law 100-203 (101 Stat. 1330-274).

¹⁵²22 U.S.C. 3761.

¹⁵³Subsec. (b) was amended and restated by sec. 5417(a) of title V of the Omnibus Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-271).

¹⁵⁴Sec. 3529(4) of Public Law 104-106 (110 Stat. 642) struck out "appropriated for or" at this point.

line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

Subchapter II—Vessel Damage

INJURIES IN LOCKS OF CANAL

SEC. 1411.¹⁵⁵ (a) Subject to section 1419(b) of this Act and ¹⁵⁶ to subsection (b) of this section, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal¹⁵⁷ when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence to fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the commission within one year after the date of the injury or November 18, 1998, whichever is later.¹⁵⁸

(b)¹⁵⁹ (1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than \$50,000 on the claim,¹⁶⁰ unless the injuries

¹⁵⁵ 22 U.S.C. 3771.

¹⁵⁶ Sec. 3509(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) inserted "to section 1419(b) of this Act and" after "Subject".

¹⁵⁷ The language from this point to the end of the sentence was added by sec. 2(a) of Public Law 99-209 (99 Stat. 1716). Sec. 2(a) also deleted a sentence previously appearing at this point which read: "Damages may not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers."

¹⁵⁸ This sentence was added by sec. 2(a) of Public Law 99-209 (99 Stat. 1716.) Sec. 3543(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) struck out "within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997." Sec. 3512(a)(4) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 18, 1998".

¹⁵⁹ Subsec. (b) was added by sec. 2(b) of Public Law 99-209 (99 Stat. 1716).

¹⁶⁰ The words "pay not more than \$50,000 on the claim" were substituted in lieu of "adjust and pay the claim only if the amount of the claim does not exceed \$50,000" by sec. 5417(b) of Public Law 100-203 (101 Stat. 1330-271).

were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 1401 of this Act shall apply to any claim described in paragraph (1).

INJURIES OUTSIDE LOCKS

SEC. 1412.¹⁶¹ Subject to section 1419(b) of this Act, the Commission¹⁶² shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal.¹⁶³ No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or November 18, 1998, whichever is later.¹⁶⁴ If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot.

MEASURE OF DAMAGES GENERALLY

SEC. 1413.¹⁶⁵ In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable there may be included—

- (1) the actual or estimated cost of repairs;
- (2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;
- (3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

¹⁶¹ 22 U.S.C. 3772.

¹⁶² Sec. 3509(a)(2) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out "The Commission" and inserted in lieu thereof "Subject to section 1419(b) of this Act, the Commission".

¹⁶³ Sec. 2(c)(1) of Public Law 99-209 (99 Stat. 1716) struck out ", and when the amount of the claim does not exceed \$120,000" at this point.

¹⁶⁴ This sentence was added by sec. 2(c)(2) of Public Law 99-209 (99 Stat. 1716). Sec. 3543(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) "within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997.". Sec. 3512(a)(4) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 18, 1998".

¹⁶⁵ 22 U.S.C. 3773.

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

SEC. 1414.¹⁶⁶ The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

- (1) landslides or other natural causes;
- (2) necessary construction or maintenance work of Canal locks, terminals, or equipment;
- (3) obstruction arising from accidents;
- (4) time necessary for admeasurement;
- (5) congestion of traffic;
- (6)¹⁶⁷ investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or
- (7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

SEC. 1415.¹⁶⁸ The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter.

¹⁶⁶22 U.S.C. 3774.

¹⁶⁷Subsec. 6 was comprehensively amended and restated by sec. 3 of Public Law 99-209 (99 Stat. 1717).

¹⁶⁸22 U.S.C. 3775. Sec. 4 of Public Law 99-190 (99 Stat. 1717), struck out "Subject to subsection (b) of this section, the Commission, by" and inserted in lieu thereof "The Commission, by" at the beginning of this section. Sec. 4 also struck out subsec. (b), and dropped the paragraph designation for subsec. (a). Subsec. (b) previously read as follows:

"(b) The Commission shall not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeds \$120,000 but shall submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon."

Such amounts may be paid only out of money¹⁶⁹ allotted for the maintenance and operation of the Panama Canal.¹⁷⁰ Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

ACTIONS ON CLAIMS

SEC. 1416.¹⁷¹ Subject to section 1419(b) of this Act, a claimant¹⁷² for damages pursuant to section 1411(a) or 1412¹⁷³ of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter may be paid out of money¹⁷⁴ allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within 180 days¹⁷⁵ after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the within one year after the date of the injury or by May 17, 1998,¹⁷⁶ whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subchapter.¹⁷⁷

¹⁶⁹Sec. 3529(5) of Public Law 104-106 (110 Stat. 642) struck out "appropriated or" at this point.

¹⁷⁰Sec. 4 of Public Law 99-190 (99 Stat. 1717), struck out struck out "Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal" and inserted in lieu thereof text beginning "Such amounts * * *".
¹⁷¹22 U.S.C. 3776.

¹⁷²Sec. 3509(a)(3) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out "A claimant" and inserted in lieu thereof "Subject to section 1419(b) of this Act, a claimant".

¹⁷³Sec. 5(1) of Public Law 99-209 (99 Stat. 1717) struck out "1411" and inserted in lieu thereof "1411(a) or 1412" here.

¹⁷⁴Sec. 5(2) of Public Law 99-209 (99 Stat. 1717) inserted "may be paid out of money" in lieu of "shall be paid out of any moneys". Sec. 3529(6) of Public Law 104-106 (110 Stat. 642) struck out "appropriated or" after "money".

¹⁷⁵Sec. 3543(b)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) struck out "one year" and inserted in lieu thereof "180 days".

¹⁷⁶Sec. 3543(b)(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) struck out "claim, or within one year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997.". Sec. 3512(a)(5) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "by May 17, 1998".

¹⁷⁷The final two sentences of sec. 1416 were added by sec. 5(3) of Public Law 99-209 (99 Stat. 1717).

INVESTIGATION OF ACCIDENT OR INJURY GIVING RISE TO CLAIM

SEC. 1417.¹⁷⁸ Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

- (1)¹⁷⁹ an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and
- (2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

SEC. 1418.¹⁸⁰ (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

- (1) the investigations required by section 1417 of this Act; and
- (2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

INSURANCE

SEC. 1419.¹⁸¹ (a)¹⁸² The Commission is authorized to purchase insurance to protect the Commission against major and unpredictable revenue losses or expenses arising from catastrophic marine accidents or other unpredictable events.¹⁸³

(b)¹⁸² (1) The Commission may by regulation require as a condition of transit through the Panama Canal or presence in the Panama Canal or waters adjacent thereto that any potential claimant under section 1411 or 1412 of this Act be covered by insurance against the types of injuries described in those sections. The amount of insurance so required shall be specified in those regulations, but may not exceed \$1,000,000.

(2) In a claim under section 1411 or 1412 of this Act for which the Commission has required insurance under this subsection, the Commission's liability shall be limited to the amount of damages in excess of the amount of insurance required by the Commission.

(3) In regulations under this subsection, the Commission may prohibit consideration or payment by it of claims presented by or on behalf of an insurer or subrogee of a claimant in a case for

¹⁷⁸ 22 U.S.C. 3777.

¹⁷⁹ Sec. 3544 of Public Law 104-201 (110 Stat. 2867) amended and restated para. (1).

¹⁸⁰ 22 U.S.C. 3778.

¹⁸¹ 22 U.S.C. 3779. Sec. 6(a) of Public Law 99-209 (99 Stat. 1717) added sec. 1419.

¹⁸² Sec. 3509(b) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) added subsec. designation "(a)" and added subsec. (b).

¹⁸³ The words "or other unpredictable events" were added by sec. 5414 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-270).

which the Commission has required insurance under this subsection.

CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

SEC. 1501.¹⁸⁴ All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

SEC. 1502.¹⁸⁵ (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvement, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-serving agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

SEC. 1503.¹⁸⁶ No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

¹⁸⁴ 22 U.S.C. 3781.

¹⁸⁵ 22 U.S.C. 3782.

¹⁸⁶ 22 U.S.C. 3783.

TRANSFER OF PROPERTY TO PANAMA

SEC. 1504.¹⁸⁷ (a)(1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. Before¹⁸⁸ the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601.¹⁸⁹ (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for use of the Panama Canal.

BASES OF TOLLS

SEC. 1602.¹⁹⁰ (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, and supply ships¹⁹¹ shall be based on net vessel tons of one hundred cubic feet each

¹⁸⁷ 22 U.S.C. 3784.

¹⁸⁸ Sec. 7 of Public Law 99-223 (99 Stat. 1740) struck out "At least 180 days before" and inserted in lieu thereof "Before".

¹⁸⁹ 22 U.S.C. 3791. Sec. 3527 of Public Law 104-106 (110 Stat. 641) amended and restated sec. 1601.

¹⁹⁰ 22 U.S.C. 3792.

¹⁹¹ Sec. 3544(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) struck out "supply ships, and yachts" and inserted in lieu thereof "and supply ships".

of actual earning capacity, or its equivalent,¹⁹² determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo. Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.¹⁹³

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)),¹⁹⁴ together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, working capital,¹⁹⁵ payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

SEC. 1603.¹⁹⁶ (a) For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at the rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

¹⁹²Sec. 3513 of Public Law 102-484 (106 Stat. 2657) inserted “, or its equivalent,” at this point.

¹⁹³Sec. 3544(2) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2072) added this sentence.

¹⁹⁴Sec. 3521(b)(2) of Public Law 102-484 (106 Stat. 2657) struck out “Panama Canal,” and inserted in lieu thereof “Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)).”

¹⁹⁵The words “working capital” were added by sec. 5427 of Public Law 100-203 (101 Stat. 1330-274).

¹⁹⁶22 U.S.C. 3793.

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund¹⁹⁷, and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A)¹⁹⁸ the amount of the funds deposited in the Panama Canal Revolving Fund,

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(d)¹⁹⁹ The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.

PROCEDURES

SEC. 1604.²⁰⁰ (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601²⁰¹ of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the

¹⁹⁷The words "Panama Canal Revolving Fund" were substituted in lieu of "appropriations to the Commission made on or after the effective date of this Act" by sec. 5425 of title V of Public Law 100-203 (101 Stat. 1330-274).

¹⁹⁸The words "deposited in the Panama Canal Revolving Fund" were substituted in lieu of "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" by sec. 5425 of Public Law 100-203 (101 Stat. 1330-274). Previously, sec. 2 of Public Law 99-195 (99 Stat. 1349) had substituted the words "Panama Canal Commission Fund" in lieu of "Treasury".

¹⁹⁹Subsec. (d) was added by sec. 5425(a)(3) of Public Law 100-203 (101 Stat. 1330-274).

²⁰⁰22 U.S.C. 3794.

²⁰¹Sec. 3528(1) of Public Law 104-106 (110 Stat. 641) struck out "1601(a)" and inserted in lieu thereof "1601".

proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

- (1) the costs of operating and maintaining the Panama Canal;
- (2) the competitive position of the use of the Canal in relation to other means of transportation;
- (3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;
- (4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and
- (5) the interests of both countries in maximizing their international commerce.

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c)²⁰² After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.

(d)²⁰³ Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

SEC. 1605.²⁰⁴ * * * [Repealed—1996]

CHAPTER 7—GENERAL REGULATIONS

SEC. 1701.²⁰⁵ * * * [Repealed—1996]

²⁰² Sec. 3528(2) of Public Law 104-106 (110 Stat. 641) amended and restated subsec. (c).

²⁰³ Sec. 3528(3) of Public Law 104-106 (110 Stat. 641) struck out subsecs. (d) and (e), and redesignated subsec. (f) as subsec. (d).

²⁰⁴ Formerly at 22 U.S.C. 3795. Sec. 3546(a)(1) of Public Law 104-201 (110 Stat. 2867) repealed sec. 1605, relating to interim toll adjustment.

²⁰⁵ Formerly at 22 U.S.C. 3801. Sec. 3546(a)(2) of Public Law 104-201 (110 Stat. 2867) repealed sec. 1701, relating to the authority of the President to prescribe certain regulations.

SEC. 1702.²⁰⁶ * * * [Repealed—1996]

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

OPERATING REGULATIONS

SEC. 1801.²⁰⁷ The Commission²⁰⁸ may prescribe, and from time to time amend, regulations governing—

- (1) the operation of the Panama Canal;
- (2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;
- (3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;
- (4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and
- (5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

Subchapter II—Inspection of Vessels

VESSELS SUBJECT TO INSPECTION

SEC. 1811.²⁰⁹ With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

FOREIGN VESSELS

SEC. 1812.²¹⁰ With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

²⁰⁶ Formerly at 22 U.S.C. 3802. Sec. 3546(a)(3) of Public Law 104-201 (110 Stat. 2867) repealed sec. 1702, relating to the authority of the Panama Canal Commission to prescribe certain regulations.

²⁰⁷ 22 U.S.C. 3811.

²⁰⁸ Sec. 3545 of Public Law 104-201 (110 Stat. 2867) struck out "President" and inserted in lieu thereof "Commission".

²⁰⁹ 22 U.S.C. 3821.

²¹⁰ 22 U.S.C. 3822.

REGULATIONS GOVERNING INSPECTION

SEC. 1813.²¹¹ The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inspection by the United States Coast Guard.

TITLE II—TREATY TRANSITION PERIOD * * * [Repealed—1996]²¹²

TITLE III—GENERAL PROVISIONS

CHAPTER 1—PROCUREMENT²¹³

SEC. 3101.²¹⁴ (a) PANAMA CANAL ACQUISITION REGULATION.—(1) The Commission shall establish by regulation a comprehensive procurement system. The regulation shall be known as the “Panama Canal Acquisition Regulation” (in this section referred to as the “Regulation”) and shall provide for the procurement of goods and services by the Commission in a manner that—

(A) applies the fundamental operating principles and procedures in the Federal Acquisition Regulation;

(B) uses efficient commercial standards of practice; and

(C) is suitable for adoption and uninterrupted use by the Republic of Panama after the Canal Transfer Date.

(2) The Regulation shall contain provisions regarding the establishment of the Panama Canal Board of Contract Appeals described in section 3102.

(b) SUPPLEMENT TO REGULATION.—The Commission shall develop a Supplement to the Regulation (in this section referred to as the ‘Supplement’) that identifies both the provisions of Federal law applicable to procurement of goods and services by the Commission and the provisions of Federal law waived by the Commission under subsection (c).

(c) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Commission shall determine which provisions of Federal law should not apply to procurement by the Commission and may waive those laws for purposes of the Regulation and Supplement.

(2) For purposes of paragraph (1), the Commission may not waive—

(A) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423);

(B) the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), other than section 10(a) of such Act (41 U.S.C. 609(a)); or

(C) civil rights, environmental, or labor laws.

(d) CONSULTATION WITH ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.—In establishing the Regulation and developing the

²¹¹ 22 U.S.C. 3823.

²¹² Sec. 3546(a)(4) of Public Law 104-201 (110 Stat. 2868) repealed title II, relating to the Treaty transition period. Sec. 3546(a)(4) refers to this title as including 22 U.S.C. 3841-3852. Title II, in fact, also includes 22 U.S.C. 3831, relating to laws, regulations, and administrative authority continued in force during the transition.

²¹³ Sec. 3541 of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85 (111 Stat. 2070) inserted a new chapter 1. Previously, sec. 3546(a)(5) of Public Law 104-201 (110 Stat. 2868) repealed a former chapter 1 of Title III, relating to disinterment, transportation, and reinterment of remains.

²¹⁴ 22 U.S.C. 3861.

Supplement, the Commission shall consult with the Administrator for Federal Procurement Policy.

(e) EFFECTIVE DATE.—The Regulation and the Supplement shall take effect on the date of publication in the Federal Register, or January 1, 1999, whichever is earlier.

PANAMA CANAL BOARD OF CONTRACT APPEALS

SEC. 3102.²¹⁵ (a) ESTABLISHMENT.—(1) The Secretary of Defense, in consultation with the Commission, may¹²⁶ establish a board of contract appeals, to be known as the Panama Canal Board of Contract Appeals, in accordance with section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607). Except as otherwise provided by this section, the Panama Canal Board of Contract Appeals (in this section referred to as the “Board”) shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) in the same manner as any other agency board of contract appeals established under that Act.

(2) The Board shall consist of three members. At least one member of the Board shall be licensed to practice law in the Republic of Panama. Individuals appointed to the Board shall take an oath of office, the form of which shall be prescribed by the Secretary of Defense.

(3)²¹⁷ Compensation for members of the Board of Contract Appeals shall be established by the Commission’s supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member’s term of office from the level established at the time of the appointment of the member.

(b) EXCLUSIVE JURISDICTION TO DECIDE APPEALS.—Notwithstanding section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)) or any other provision of law, the Board shall have exclusive jurisdiction to decide an appeal from a decision of a contracting officer under section 8(d) of such Act (41 U.S.C. 607(d)).

(c) EXCLUSIVE JURISDICTION TO DECIDE PROTESTS.—The Board shall decide protests submitted to it under this subsection by interested parties in accordance with subchapter V of title 31, United States Code. Notwithstanding section 3556 of that title, section 1491(b) of title 28, United States Code, and any other provision of law, the Board shall have exclusive jurisdiction to decide such protests. For purposes of this subsection—

(1) except as provided in paragraph (2), each reference to the Comptroller General in sections 3551 through 3555 of title 31, United States Code, is deemed to be a reference to the Board;

²¹⁵ 22 U.S.C. 3862.

¹²⁶ Sec. 3510(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out “shall” and inserted in lieu thereof “may”.

²¹⁷ Sec. 3510(a)(2) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) added para. (3).

(2) the reference to the Comptroller General in section 3553(d)(3)(C)(ii) of such title is deemed to be a reference to both the Board and the Comptroller General;

(3) the report required by paragraph (1) of section 3554(e) of such title shall be submitted to the Comptroller General as well as the committees listed in such paragraph;

(4) the report required by paragraph (2) of such section shall be submitted to the Comptroller General as well as Congress; and

(5) section 3556 of such title shall not apply to the Board, but nothing in this subsection shall affect the right of an interested party to file a protest with the appropriate contracting officer.

(d) PROCEDURES.—The Board shall prescribe such procedures as may be necessary for the expeditious decision of appeals and protests under subsections (b) and (c).

(e) COMMENCEMENT.—The Board shall begin to function as soon as it has been established and has prescribed procedures under subsection (d).²¹⁸

(f) TRANSITION.—The Board shall have jurisdiction under subsections (b) and (c) over any appeals and protests filed on or after the date on which the Board begins to function. Any appeals and protests filed before such date shall remain before the forum in which they were filed.

(g) OTHER FUNCTIONS.—The Board may perform functions similar to those described in this section for such other matters or activities of the Commission as the Commission may determine and in accordance with regulations prescribed by the Commission.

CHAPTER 2—IMMIGRATION

SPECIAL IMMIGRANTS

SEC. 3201.²¹⁹ * * *

CHAPTER 3—REPORTS, AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

REPORT

SEC. 3301.²²⁰ Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to

²¹⁸ Sec. 3510(b) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105-261; 112 Stat. 2270) struck out “, but not later than January 1, 1999”.

²¹⁹ Sec. 3201(a) and (b) amended several sections of the Immigration and Nationality Act. Subsec. (c), repealed by sec. 212(a) of Public Law 103-416 (108 Stat. 4314), formerly read as follows: “(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), or (G) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.”

²²⁰ 22 U.S.C. 3871.

the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

EXEMPTION FROM METRIC CONVERSION ACT OF 1975

SEC. 3302.²²¹ The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).

REPEALS AND REDESIGNATION

SEC. 3303.²²² * * *

EFFECTIVE DATE

SEC. 3304. Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, 3101, and 3201 of this Act, the preceding provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.²²³

²²¹ Former sec. 3302 made amendments in several provisions of law to conform with this Act. Sec. 3547 of Public Law 104-201 (110 Stat. 2868) added this new sec. 3302.

²²² Sec. 3303 repealed or redesignated several provisions of law to conform with this Act.

²²³ October 1, 1979.

**b. Panama Canal Commission Compensation Fund Act of
1988**

Public Law 100-705 [H.R. 5287], 102 Stat. 4685, approved November 19, 1988; amended by the National Defense Authorization Act for Fiscal Year 1991 [Public Law 101-510; H.R. 4739], 104 Stat. 1485, approved November 5, 1990; and by the National Defense Authorization Act for Fiscal Year 1998 [Public Law 105-85; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Compensation Fund Act of 1988".

SEC. 2.² ESTABLISHMENT OF COMPENSATION FUND.

There is established in the Treasury of the United States the Panama Canal Commission Compensation Fund (hereafter in this Act referred to as the "Fund").

SEC. 3.³ OPERATION OF THE FUND.

(a) DEPOSITS TO THE FUND.—The Panama Canal Commission shall make deposits on a regular basis to the Fund, beginning on October 1, 1988, to accumulate an amount sufficient to defray the estimated total cost of liability for the workers' compensation benefits and other payments payable under chapter 81 of title 5, United States Code, for the disability or death of employees of the Panama Canal Commission or any of its predecessor agencies on account of injuries sustained on or before December 31, 1999, except for those claims arising before, on, or after October 1, 1988, for which the Secretary of Labor has assumed fiscal responsibility.

(b) CALCULATION OF AMOUNTS TO BE DEPOSITED.—The amounts deposited under subsection (a) shall be based upon periodic actuarial studies conducted by experts or consultants whose services are procured by the Panama Canal Commission by contract. The amounts of such deposits shall take into consideration interest earnings in accordance with subsection (c) of this section and expected cost-of-living adjustments as provided in section 8146a of title 5, United States Code, but not amounts payable by the Commission for continuation of pay pursuant to section 8118 of such title.

(c) INVESTMENT OF AMOUNTS IN THE FUND.—The Secretary of the Treasury, upon the request of the Secretary of Labor, shall invest

¹ 22 U.S.C. 3601 note.

² 22 U.S.C. 3715.

³ 22 U.S.C. 3715a.

moneys in the Fund in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity. Such interest shall be credited to and form part of the Fund.

SEC. 4.⁴ TRANSFERS FROM THE FUND FOR COMPENSATION BENEFITS.

The Secretary of the Treasury shall, upon request of the Secretary of Labor, transfer funds from the Fund to the Employees' Compensation Fund to reimburse the Employees' Compensation Fund for the total cost of workers' compensation benefits and other payments described in section 3(a) that are provided on or after October 1, 1988.

SEC. 5.⁵ FINAL EVALUATION OF THE FUND; DEFICIENCY OR SURPLUS IN THE FUND.

(a) **FINAL EVALUATION OF THE FUND.**—By March 31, 1998, the Secretary of Labor⁶ shall, on the basis of an actuarial study conducted by experts or consultants whose services are procured by the Secretary of Labor by contract, make a final determination of the amounts estimated to be necessary to meet expenditures for workers' compensation benefits and other payments described in section 3(a), as calculated in accordance with the second sentence of section 3(b). Amounts in the Fund shall be used to pay for the final determination under this subsection.⁷

(b) **DEFICIENCY OR SURPLUS IN THE FUND.**—If amounts in the Fund are not sufficient to meet expenditures as determined by the Secretary of Labor under subsection (a)⁸ for workers' compensation benefits and other payments described in section 3(a), then amounts in the Panama Canal Revolving Fund not otherwise obligated shall be transferred to the Fund⁹ to make up the deficiency. Any amounts remaining in the Fund in excess of the final determination amount as described in subsection (a) shall be transferred to the Panama Canal Revolving Fund, and may be used to satisfy lawful obligations of the Revolving Fund arising on or before December 31, 1999.

(c)¹⁰ **CONTINUITY OF THE FUND.**—(1) Amounts in the Fund (including amounts transferred as a result of the final determination made under subsection (a)) shall be maintained by the Secretary of the Treasury, shall be made available for transfer to the Employees' Compensation Fund in such amounts as are requested by the

⁴22 U.S.C. 3715b.

⁵22 U.S.C. 3715c.

⁶Sec. 3507(1) of Public Law 101–510 (104 Stat. 1847) struck out “Upon the termination of the Panama Canal Commission:” preceding subsec. (a). In subsec. (a), sec. 3507(2)(A) of that Act struck out “The Secretary of Labor” and inserted in lieu thereof “Upon the termination of the Panama Canal Commission, the Secretary of Labor”. Subsequently, sec. 3545 of Public Law 105–85 (111 Stat. 2072) struck out “Upon the termination of the Panama Canal Commission” and inserted in lieu thereof “By March 31, 1998”.

⁷Sec. 3507(2)(B) of Public Law 101–510 (104 Stat. 1847) struck out “The Secretary of the Treasury shall, in accordance with such final determination, transfer from the Fund to the Employee Compensation Fund amounts sufficient to meet expenditures for workers' compensation benefits and other payments described in section 3(a).”

⁸Sec. 3507(3)(A) of Public Law 101–510 (104 Stat. 1847) inserted “under subsection (a)”.

⁹Sec. 3507(3)(B) of Public Law 101–510 (104 Stat. 1847) struck out “Employees Compensation” before “Fund”.

¹⁰Sec. 3507(4) of Public Law 101–510 (104 Stat. 1847) added subsec. (c).

Secretary of Labor pursuant to section 4, and may be discontinued only in accordance with paragraph (2).

(2) At such time as the Secretary of Labor certifies that no further liability exists for workers compensation benefits or other payments described in section 3(a), the Secretary of the Treasury may discontinue the Fund in the manner provided by law.

SEC. 6.¹¹ CONTINUATION OF BENEFITS.

The provisions of chapter 81 of title 5, United States Code, shall, on or after the effective date of this Act, continue to be the exclusive remedy, in accordance with section 8116 of such title, for the disability or death of any employee of the Panama Canal Commission, or any of its predecessor agencies, who is covered under such chapter, resulting from injuries sustained while in the performance of the employee's duty. The rights of any such employee for workers' compensation benefits shall be based only on the provisions of the chapter.

SEC. 7.¹² * * *

SEC. 8.¹² * * *

SEC. 9.¹² * * *

SEC. 10. EFFECTIVE DATE.

This Act takes effect on October 1, 1988.-

¹¹ 22 U.S.C. 3715d.

¹² Secs. 7 through 9 amended the Panama Canal Act of 1979.

c. Panama Canal—Report to Congress

Partial text of Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330 at 1330–271, approved December 22, 1987

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

* * * * *

TITLE V—ENERGY AND ENVIRONMENTAL PROGRAMS

* * * * *

Subtitle E—Panama Canal

* * * * *

PART 1—PANAMA CANAL REAUTHORIZATION

* * * * *

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission¹ shall prepare and submit to the Congress a report on—

- (1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;
- (2) the effect on canal operations of the military forces under General Noriega; and
- (3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

* * * * *

¹The Panama Canal Commission.

d. Delegation of Panama Canal Functions

Executive Order 12215, May 27, 1980, 45 F.R. 36043, 22 U.S.C. 3601 note; as amended by Executive Order 12652, September 19, 1988, 53 F.R. 36775

By the authority vested in me as President of the United States of America by the Panama Canal Code (76A Stat. 1), as amended, by the Panama Canal Act of 1979 (93 Stat. 452; 22 U.S.C. 3601 *et seq.*), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-1. The Secretary of Defense.

1-101. The Secretary of Defense shall develop for the President's consideration an appropriate legislative proposal as required by Section 3(d) of the Panama Canal Act of 1979 (93 Stat. 456; 22 U.S.C. 3602(d)). The Secretary of Defense shall coordinate development of this proposal with the Secretary of State and the heads of other interested Executive agencies.

1-102. The function vested in the President by Section 1212(d)(1) of the Panama Canal Act of 1979 (93 Stat. 464; 22 U.S.C. 3652(d)(1)) to exclude employees of, or positions within, the Department of Defense from coverage under any provision of subchapter II, Chapter 2 of Title I of the Panama Canal Act of 1979, is delegated to the Secretary of Defense.

1-103. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-104. The function vested in the President by Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801), with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, is delegated to the Secretary of Defense.

1-105. The functions vested in the President by Sections 1243(c)(1) and 2401 of the Panama Canal Act of 1979 (93 Stat. 474 and 495; 22 U.S.C. 3681(c)(1) and 3851) are delegated to the Secretary of Defense.

1-106. The functions vested in the President by Section 1502(a) of the Panama Canal Act of 1979 (93 Stat. 488; 22 U.S.C. 3782(a)) are delegated to the Secretary of Defense.

1-2. Coordination of Pay and Employment Practices.

1-201. In order to coordinate the policies and activities of agencies under subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463; 22 U.S.C. 3651 *et seq.*), each agency shall periodically consult with the Secretary of Defense with re-

spect to the establishment of rates of pay, in order to develop compatible or unified systems of basic pay. In addition, each agency shall consult with the Secretary of Defense on such other matters as the Secretary may deem appropriate in order to develop compatible or unified employment practices.

1-202. The head of each agency shall, upon approval by the Secretary of Defense, adopt a schedule of basic pay pursuant to Section 1215 of the Panama Canal Act of 1979 (93 Stat. 465; 22 U.S.C. 3655) and adopt regulations governing other matters relating to pay and employment practices.

1-203. The authority vested in the President by Section 1223(a) of the Panama Canal Act of 1979 to coordinate the policies and activities of agencies (93 Stat. 467; 22 U.S.C. 3663(a)) is delegated to the Secretary of Defense. The Secretary shall exercise such functions in a manner which is in accord with the provisions of Sections 1-201 and 1-202 of this Order.

1-3. Panama Canal Commission.

1-301. The functions vested in the President and delegated to the Secretary of Defense in this Section 1-3 of this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1-302. The authority of the President under Section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1-303. The functions vested in the President by Sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, and 3844) are delegated to the Secretary of Defense.

1-304. The authority of the President under Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-305. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-306. The function vested in the President by Sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

1-307.¹ * * * [Rescinded—1988]

¹Sec. 1 of Executive Order 12652 of September 19, 1988 (53 F.R. 36775), rescinded sec. 1-307. It formerly read as follows:

1-308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463) are hereby delegated to the Secretary of Defense.

1-4. Other Agencies.

1-401. The functions vested in the President by Sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1-402. The functions vested in the President by Sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1-403. The functions vested in the President by Section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1-404. Paragraphs (22) and (23) of Section 1 of Executive Order No. 11609, as amended, and Executive Order No. 11713 are revoked.

“The functions vested in the President by subsections (a), (b) and (c) of provided: Section 8146 of Title 5 of the United States Code, as they apply to the employees of the Panama Canal Commission, are delegated to the Secretary of Defense.”

Executive Order 12652 also provided:

“**Sec. 2.** The transfer and other exercises of authority made pursuant to Section 1-307 of Executive Order 12215 in Department of Defense Memorandum, ‘Implementation of Executive Order 12215, ‘Delegation of Panama Canal Functions’, July 18, 1980, are rescinded.

“**Sec. 3.** This Order shall be effective January 1, 1989.”

H. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

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1. United Nations Participation Act of 1945, as amended ¹

Public Law 79-264 [S. 1580], 59 Stat. 619, approved December 20, 1945; as amended by Public Law 81-216 [National Security Act Amendments of 1949, H.R. 5632], 63 Stat. 578, approved August 10, 1949; Public Law 81-341 [H.R. 4708], 63 Stat. 734; approved October 10, 1949; Public Law 86-707 [Overseas Differentials and Allowances Act, H.R. 7758], 74 Stat. 792, approved September 6, 1960; Public Law 89-206 [S. 1903], 79 Stat. 841, approved September 28, 1965; Public Law 93-126 [Department of State Appropriations Authorization Act of 1973, H.R. 7645], 87 Stat. 451, approved October 18, 1973; Public Law 95-12 [H.R. 1746], 91 Stat. 22, approved March 18, 1977; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279 and 280, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1035, approved November 22, 1983; Public Law 100-459 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989; H.R. 4782], approved October 1, 1988; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference]; 113 Stat. 1536, approved November 29, 1999; and by Public Law 106-309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143] 114 Stat. 1078, approved October 17, 2000

AN ACT To provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “United Nations Participation Act of 1945”.

SEC. 2. (a)² The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform

¹ See related legislation: Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, especially title VII, subtitle B; Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, especially title IV, part A; Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, secs. 161, 170, 174-175, 212, 192, and 364; Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, secs. 406-408; Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, title VII, and sec. 1211; Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, sec. 151; Department of State Authorization Act, Fiscal Years 1984 and 1985, secs. 113-116, 118-119; Department of State Authorization Act, Fiscal Years 1982 and 1983, secs. 104, 108, 109; Foreign Relations Authorization Act, Fiscal Year 1979, secs. 103 and 609; Foreign Relations Authorization Act, Fiscal Year 1978, sec. 503; and Foreign Relations Authorization Act, Fiscal Year 1976, secs. 205 and 503.

² 22 U.S.C. 287. Subsecs. (a) and (b) were amended and restated by sec. 1(a) of Public Law 89-206 (79 Stat. 841); previously amended and restated by sec. 2 of Public Law 81-341 (63 Stat. 734).

such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b)² The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

(c)³ The President, by and with the advice and consent of the Senate, shall designate from time to time to attend a specified session or specified sessions of the General Assembly of the United Nations not to exceed five representatives of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Assembly. One of the representatives shall be designated as the senior representative.

(d)⁴ The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such council in lieu of the regular representative. The President may designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under section 2 (a) and (b) or in lieu of such representatives in connection with a specified subject matter.

³Subsec. (c) was amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 734).

⁴Subsec. (d) was amended and restated by sec. 1(b) of Public Law 89-206 (79 Stat. 841); previously amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 735).

(e)⁵ The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct.

(f)⁵ Nothing contained in this section shall preclude the President, or the Secretary of State, at the direction of the President from representing the United States at any meeting or session of any organ or agency of the United Nations.

(g)⁵ All persons appointed in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsections (c) and (d) of this section as a representative of the United States or as an alternate to attend any specified session or specified sessions of the General Assembly shall be entitled to receive such compensation.⁶

(h)⁷ The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct. The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency.

SEC. 3.⁸ The representatives provided for in section 2 hereof, when representing the United States in the respective organs and agencies of the United Nations, shall, at all times, act in accordance with the instructions of the President transmitted by the Secretary of State unless other means of transmission is directed by

⁵ Subsecs. (e) and (f) were redesignated subsecs. (f) and (g) respectively and a new subsec. (e) was added by sec. 2 of Public Law 89-206 (79 Stat. 841). The present subsec. (g) was originally added by sec. 2 of Public Law 81-341.

⁶ References in this sentence to the Foreign Service Act of 1980 and to the Senior Foreign Service were inserted by sec. 2206(a)(2) of Public Law 96-465 (94 Stat. 2160), effective February 15, 1981. These replaced a reference to the Foreign Service Act of 1946.

⁷ Subsec. (h) was added by sec. 118 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-273; 96 Stat. 279). Sec. 708(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), added the last sentence.

⁸ 22 U.S.C. 287a.

the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Charter in the United Nations.

SEC. 4.⁹ (a) PERIODIC REPORTS.—The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress of the activities of the United Nations and of the participation of the United States therein.¹⁰

(b) TRANSMITTAL OF SECURITY COUNCIL RESOLUTIONS.—Not later than 3 days (excluding Saturdays, Sundays, and legal holidays) after adoption of any resolution by the Security Council, the Secretary of State shall transmit the text of such resolution and any supporting documentation to the designated congressional committees.

(c) REPORTS ON PEACEKEEPING OPERATIONS.—The Secretary of State shall promptly transmit to the designated congressional committees any published report prepared by the United Nations and distributed to the members of the Security Council that contains assessments of any proposed, ongoing, or concluded United Nations peacekeeping operation.

(d)¹¹ ANNUAL REPORT.—In addition to the report required by subsection (a), the President, at the time of submission of the annual budget request to the Congress, shall submit to the designated congressional committees a report that includes the following:

(1) COSTS OF PEACEKEEPING OPERATIONS.—

(A) In accordance with section 407(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, a description of all assistance provided by the United States to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year.

(B) With respect to United Nations peacekeeping operations—

(i) the aggregate cost of all United Nations peacekeeping operations for the prior fiscal year;

(ii) the costs of each United Nations peacekeeping operation for the prior fiscal year; and

(iii) the amount of United States contributions (both assessed and voluntary) to United Nations peacekeeping operations on an operation-by-operation basis for the prior fiscal year.

⁹22 U.S.C. 287b. Sec. 406 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 448), inserted “(a) PERIODIC REPORTS.—”, and added new subsecs. (b) and (c). See also sec. 407 of that Act, relating to consultations and reports on U.N. peacekeeping operations.

The Secretary of State delegated functions authorized under subsection (b) and (c) to the Assistant Secretary for International Organization Affairs (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

¹⁰Sec. 724(a)(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), struck out “He shall make special current reports on decisions of the Security Council to take enforcement measures under the provisions of the Charter of the United Nations, and on the participation therein, under his instructions, of the representative of the United States.” at this point.

¹¹Sec. 407(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103-236; 108 Stat. 450), added subsec. (d) and (e). Subsec. (e) was subsequently struck out and new text was inserted; see related notes.

- (C) With respect to other international peacekeeping operations in which the United States participates—
- (i) the aggregate cost of all such operations for the prior fiscal year;
 - (ii) the costs of each such operation for the prior fiscal year; and
 - (iii) the amount of United States contributions (both assessed and voluntary) to such operations on an operation-by-operation basis for the prior fiscal year.
- (D) In the case of the first 2 reports submitted pursuant to this subsection, a projection of all United States costs for United Nations peacekeeping operations during each of the next 2 fiscal years, including assessed and voluntary contributions.
- (2) OTHER MATTERS REGARDING PEACEKEEPING OPERATIONS.—
- (A) An assessment of the effectiveness of ongoing international peacekeeping operations, their relevance to United States national interests, the efforts by the United Nations and other international organizations (as applicable) to resolve the relevant armed conflicts, and the projected termination dates for all such operations.
- (B) The dollar value and percentage of total peacekeeping contracts that have been awarded to United States contractors during the previous year.
- (3) UNITED NATIONS REFORM.—
- (A)(i) A description of the status of efforts to establish and implement an independent office of the Inspector General at the United Nations.
- (ii) If an office of the Inspector General has been established at the United Nations, a discussion of whether the Inspector General is keeping the Secretary General and the members of the General Assembly fully informed about problems, deficiencies, the necessity for corrective action, and the progress of corrective action.
- (iii) For purposes of this subparagraph, the term ‘office of the Inspector General’ means an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.
- (B) A description of the status of efforts to reduce the United States peacekeeping assessment rate.
- (C) A description of the status of other United States efforts to achieve financial and management reform at the United Nations.
- (4) MILITARY PERSONNEL PARTICIPATING IN MULTINATIONAL FORCES.—A description of—
- (A) the status under international law of members of multinational forces, including the legal status of such personnel if captured, missing, or detained;
 - (B) the extent of the risk for United States military personnel who are captured while participating in multinational forces in cases where their captors fail to respect

the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(C) the specific steps that have been taken to protect United States military personnel participating in multinational forces, together (if necessary) with any recommendations for the enactment of legislation to achieve that objective.

(5) HUMAN RIGHTS AND U.N. PEACEKEEPING FORCES.—A description of the efforts by United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

(e)¹² CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS.—

(1) CONSULTATIONS.—Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

(2) INFORMATION TO BE PROVIDED.—In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

(A) With respect to ongoing United Nations peacekeeping operations, the following:

(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and the estimated costs to the United States of such changes.

(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Se-

¹²Originally added by sec. 407(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1005 (Public Law 103-236; 108 Stat. 450). Sec. 724(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536) struck that language and inserted new subsecs. (e) and (f). Former subsec. (e) was similar to the new subsec. (f).

curity Council resolution during such month, the following information for the period covered by the resolution:

(i) The anticipated duration, mandate, and command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

(iv) A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and an estimate of the cost to the United States of such assistance or support.

(v) A reprogramming of funds pursuant to section 34 of the State Department Basic Authorities Act of 1956, submitted in accordance with the procedures set forth in such section, describing the source of funds that will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(3) FORM AND TIMING OF INFORMATION.—

(A) FORM.—The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

(B) TIMING.—

(i) ONGOING OPERATIONS.—The information required under paragraph (2)(A) for a month shall be submitted not later than the 10th day of the month.

(ii) NEW OPERATIONS.—The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—As used in paragraph (2), the term “new United Na-

tions peacekeeping operation” includes any existing or otherwise ongoing United Nations peacekeeping operation—

(A) where the authorized force strength is to be expanded;

(B) that is to be authorized to operate in a country in which it was not previously authorized to operate; or

(C) the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—

(A) NOTIFICATION OF CERTAIN ASSISTANCE.—

(i) IN GENERAL.—The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

(ii) EXCEPTION.—This subparagraph does not apply to—

(I) assistance having a value of less than \$3,000,000 in the case of nonreimbursable assistance or less than \$14,000,000 in the case of reimbursable assistance; or

(II) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

(B) QUARTERLY REPORTS.—

(i) IN GENERAL.—The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations.

(ii) MATTERS INCLUDED.—Each report under this subparagraph shall describe the assistance provided for each such operation, listed by category of assistance.

(iii) FOURTH QUARTER REPORT.—The report under this subparagraph for the fourth calendar quarter of each year shall be submitted as part of the annual report required by subsection (d) and shall include cumulative information for the preceding calendar year.

(f)¹² DESIGNATED CONGRESSIONAL COMMITTEES.—In this section, the term “designated congressional committees” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(g)¹³ RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—Nothing in this section is intended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law.

¹³ Added by sec. 724(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536).

SEC. 5.¹⁴ (a) Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Chapter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law.¹⁵ The President may exempt from such Executive order any shipment of chromium in any form which is in transit to the United States on the date of enactment of this sentence.¹⁶

(b) Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to paragraph (a) of this section shall, upon conviction, be fined not more than \$10,000 or, if a natural person, be imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft,¹⁷ concerned in such violation shall be forfeited to the United States.

(c)¹⁸ (1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

¹⁴ 22 U.S.C. 287c.

¹⁵ Such an Executive Order was issued on March 18, 1977, Executive Order 11978 (amending Executive Order 11419). Sec. 27 of the International Security Assistance Act of 1978 (92 Stat. 746), repealed in 1981, specified that the United States would not enforce sanctions against Rhodesia after December 31, 1978, provided that the President made certain determinations regarding the political situation in Rhodesia (*Legislation on Foreign Relations Through 1992*, vol. I, page 531, footnote 11). The policy contained in sec. 27 was never implemented since the President did not issue the necessary determinations. See also sec. 408 of the Department of State Authorization Act, Fiscal Year 1980-81 (Public Law 96-60; 93 Stat. 405) (this volume) which contained several congressional findings regarding the Zimbabwe-Rhodesia situation and instructed the President to terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless he determined that it would not be in the national interest of the United States to do so. On November 14, President Carter issued Determination No. 80-44 (55 F.R. 67073) making a finding that it was not in the interest of the United States to terminate the sanctions. However, on December 16, 1979, the President issued Executive Order 12183 (44 F.R. 74787) which revoked all sanctions against Zimbabwe-Rhodesia. Such Executive Order also revoked Executive Orders 11322, 11419, and 11978.

¹⁶ The final two sentences of subsec. (a) were added by Public Law 95-12 (91 Stat. 22).

¹⁷ The words "or aircraft" added by sec. 3 of Public Law 81-341 (63 Stat. 735).

¹⁸ Subsec. (c) was added by Public Law 95-12 (91 Stat. 22).

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3) (B) or (C).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3)(A) In carrying out this subsection, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpoena, may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on the date of enactment of this subsection.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term “certificate of origin” means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term “Secretary” means the Secretary of the Treasury.

SEC. 6.¹⁹ The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general locations, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreement or agreements the Armed Forces, facilities, or assistance provided for therein: *Provided*, That, except as authorized in section 7 of this Act,²⁰ nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security

¹⁹ 22 U.S.C. 287d.

²⁰ The words “except as authorized in section 7 of this Act” were added by sec. 4 of Public Law 81-341 (63 Stat. 735).

Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities, and assistance provided for in such special agreement or agreements.

SEC. 7.²¹ (a) Notwithstanding the provisions of any other law, the President, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, may authorize, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by chapter VII of the United Nations Charter—

(1) the detail to the United Nations, under such terms and conditions as the President shall determine, of personnel of the armed forces of the United States to serve as observers, guards, or in any noncombatant capacity, but in no event shall more than a total of one thousand of such personnel be so detailed at any one time: *Provided*, That while so detailed, such personnel shall be considered for all purposes as acting in the line of duty, including the receipt of pay and allowances as personnel of the armed forces of the United States, credit for longevity and retirement, and all other perquisites appertaining to such duty: *Provided further*, That upon authorization or approval by the President, such personnel may accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso hereof, and (b) extraordinary expenses and perquisites incident to such detail;

(2) the furnishing of facilities, services, or other assistance and the loan of the agreed fair share of the United States of any supplies and equipment to the United Nations by the Department of Defense, under such terms and conditions as the President shall determine;

(3) the obligation, insofar as necessary to carry out the purposes of clauses (1) and (2) of this subsection, of any funds appropriated to the Department of Defense or any department therein, the procurement of such personnel, supplies, equipment, facilities, services, or other assistance as may be made available in accordance with the request of the United Nations, and the replacement of such items, when necessary, where they are furnished from stocks.

(b) Whenever personnel or assistance is made available pursuant to the authority contained in subsection (a) (1) and (2) of this section, the President shall require reimbursement from the United Nations for the expense thereby incurred by the United States: *Provided*, That in exceptional circumstances, or when the President finds it to be in the national interest, he may waive, in whole or in part, the requirement of such reimbursement: *Provided further*, That when any such reimbursement is made, it shall be credited, at the option of the appropriate department of the Department of Defense, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or

²¹ 22 U.S.C. 287d-1. Sec. 7 was added by sec. 5 of Public Law 81-341 (63 Stat. 735). Sec. 12(a) of Public Law 81-216 (63 Stat. 591) changed the term "National Military Establishment" to "Department of Defense" throughout the section.

account currently available for the purposes for which expenditures were made.

(c) In addition to the authorization of appropriations to the Department of State contained in section 8 of this Act, there is hereby authorized to be appropriated to the Department of Defense, or any department therein, such sums as may be necessary to reimburse such departments in the event that reimbursement from the United Nations is waived in whole or in part pursuant to authority contained in subsection (b) of this section.

(d) Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any other law of the United States.

SEC. 8.²² There is hereby authorized to be appropriated annually to the Department of State, out of any money in the treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof, and of their appropriate staffs, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended;²³ travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949,²⁴ and section 10 of the Act of March 3, 1933, as amended,²⁵ and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (5 U.S.C. 118a);²⁶ cost-of-living allowances for personnel stationed abroad under such rules and regulations as the Secretary of State may prescribe; communications services; stenographic reporting, translating, and other services, by contract; hire of passenger motor vehicles and other local transportation;

²² 22 U.S.C. 287e. Added originally as sec. 7, this text was redesignated as sec. 8 by sec. 6 of Public Law 81-341 (63 Stat. 736).

Sec. 106(g) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536), provided the following:

“(g) REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.”

Sec. 410 of the Foreign Assistance Act of 1971 (Public Law 92-226), approved February 7, 1972, provided as follows:

“The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President’s Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the “Lodge Commission”) which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.”

See also title IV, part A of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 445).

²³ Classification Act of 1923, as amended, is now the Classification Act of 1949, as amended (5 U.S.C. 305, 5101-5113, 5115, 5331-5338, 5341, 5342, 5509, 7154).

²⁴ 5 U.S.C. 5701, 5702, 5704-5708.

²⁵ 15 U.S.C. 5731.

²⁶ Act of June 26, 1930, is now amended (5 U.S.C. 5912).

rent of offices; printing and binding without regard to section 11 of the Act of March 1, 1949 (44 U.S.C. 111); allowances and expenses as provided in section 6 of the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress),²⁷ and allowances and expenses equivalent to those provided in section 905 of the Foreign Service Act of 1980,²⁸ the lease or rental (for periods not exceeding ten years) of living quarters for the use of the representatives provided for in section 2 of this Act serving abroad²⁹ and of their appropriate staffs,³⁰ the cost of installation and use of telephones in the same manner as telephone service is provided for use of the Foreign Service pursuant to the Act of August 23, 1912, as amended (31 U.S.C. 679), and³¹ unusual expenses similar to those authorized by section 22 of the Administrative Expenses Act of 1946, as amended³² by section 311 of the Overseas Differentials and Allowances Act, incident to the operation and maintenance of such living quarters abroad;³³ and such other expenses as may be authorized by the Secretary of State; and without regard to section 3709 of the Revised Statutes as amended (41 U.S.C. 5).³⁴

SEC. 9.³⁵ The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised

²⁷ Sec. 6 of the Act of July 30, 1946, as amended (22 U.S.C. 287r).

²⁸ The reference to sec. 905 of the Foreign Service Act of 1980 was inserted by sec. 2206(a)(2) of Public Law 96-465 (94 Stat. 2160), effective February 15, 1981. This replaced a reference to sec. 901(3) of the Foreign Service Act of 1946.

²⁹ Sec. 304(a)(1) of Public Law 100-459 (102 Stat. 2207) added "serving abroad" at this point.

³⁰ The words "representatives provided for in section 2 of this Act and of their appropriate staffs" were inserted in lieu of "representative of the United States to the United Nations referred to in paragraph (a) of section 2 hereof" by sec. 119(1) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241, 96 Stat. 280).

³¹ Sec. 311(b) of Public Law 86-707 substituted the phrase "and unusual expenses * * *" for the previous clause.

³² Sec. 22 of the Administrative Expenses Act of 1946, as amended, is now codified as 5 U.S.C. 5913 by Public Law 89-554 (80 Stat. 378 at 510; September 6, 1966).

³³ Sec. 304(a)(2) of Public Law 100-459 (102 Stat. 2207) added "abroad" at this point.

³⁴ The last sentence, added by sec. 119(2) of Public Law 97-273 (96 Stat. 280), was deleted by sec. 304(a)(3) of Public Law 100-459. It formerly read as follows:

"Any payments made by United States Government personnel for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose."

³⁵ 22 U.S.C. 287e-1. Sec. 9, originally added by sec. 15 of Public Law 93-126 (87 Stat. 454), was substantially rewritten by sec. 304(b) of Public Law 100-459 (102 Stat. 2207). Subsec. (2) was redesignated "(3)"; in such subsec. the word "President" was deleted and "Secretary" inserted; subsecs. (1), (2), and (4) were new text. Sec. 304(c)(1) provided an effective date of July 1, 1989, for these amendments. Sec. 9 formerly read as follows:

"SEC. 9. The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

"(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State, and any employee of the United States Information Agency designated by the Director of that Agency, who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and

"(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code:

(1) Make available to the Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

(2)³⁶ Make available in New York to no more than 30³⁷ foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

(3)³⁵ provide such allowance as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

(4) The Inspector General shall review the program established by this section no later than December 1989 and periodi-

³⁵“Not more than fifty employees, including not more than five employees of the United States Information Agency, shall be receiving an allowance under paragraph (1) of this section at any one time.”

³⁶Sec. 304(c) of Public Law 100-459 (102 Stat. 2208) provided:

“(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989.”

³⁷Sec. 405 of public Law 106-309 (114 Stat. 1098) struck out “18” and inserted in lieu thereof “30”.

cally thereafter with a view to increasing cost savings and making other appropriate recommendations.

SEC. 10.³⁷ REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

(a) **REQUIREMENT TO OBTAIN REIMBURSEMENT.—**

(1) **IN GENERAL.—**Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

(2) **EXCEPTIONS.—**

(A) **IN GENERAL.—**The requirement in paragraph (1) shall not apply to—

(i) goods and services provided to the United States Armed Forces;

(ii) assistance having a value of less than \$3,000,000 per fiscal year per operation;

(iii) assistance furnished before the date of enactment of this section;

(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

(v) any assistance commitment made before the date of enactment of this section.

(B) **DEPLOYMENTS OF UNITED STATES MILITARY FORCES.—**

The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 554 of the Foreign Assistance Act of 1961.

(3) **FORM AND AMOUNT.—**

³⁷ 22 U.S.C. 287e-2. Added by sec. 723 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1536).

(A) AMOUNT.—The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

(B) FORM.—Reimbursement under this subsection may include credits against the United States assessed contributions for United Nations peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

(b) TREATMENT OF REIMBURSEMENTS.—

(1) CREDIT.—The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

(2) AVAILABILITY.—Amounts credited under paragraph (1) shall be merged with the appropriations, or with appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

(c) COVERED ASSISTANCE.—Subsection (a) applies to assistance provided under the following provisions of law:

(1) Sections 6 and 7 of this Act.

(2) Sections 451, 506(a)(1), 516, 552(c), and 607 of the Foreign Assistance Act of 1961.

(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

(d) WAIVER.—

(1) AUTHORITY.—

(A) IN GENERAL.—The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

(B) CONGRESSIONAL NOTIFICATION.—When exercising the authorities of subparagraph (A), the President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(2) CONGRESSIONAL REVIEW.—Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

(3) SENATE PROCEDURES.—Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance

with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(e) RELATIONSHIP TO OTHER REIMBURSEMENT AUTHORITY.—Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

(f) DEFINITION.—In this section, the term “assistance” includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency.

2. United Nations Reform Act of 1999

**Partial text of Public Law 106–113 [H.R. 3427, enacted by reference in 3194],
113 Stat. 1501, approved November 29, 1999**

AN ACT To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform in the United Nations; and for other purposes

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

SECTION 1. SHORT TITLE.

This Act may be cited as the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001”.

* * * * *

TITLE IX—ARREARS PAYMENTS AND REFORM

Subtitle A—General Provisions

SEC. 901. SHORT TITLE.

This title may be cited as the “United Nations Reform Act of 1999”.

SEC. 902. DEFINITIONS.

In this title:

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

(2) **DESIGNATED SPECIALIZED AGENCY DEFINED.**—The term “designated specialized agency” means the International Labor Organization, the World Health Organization, and the Food and Agriculture Organization.

(3) **GENERAL ASSEMBLY.**—The term “General Assembly” means the General Assembly of the United Nations.

(4) **SECRETARY GENERAL.**—The term “Secretary General” means the Secretary General of the United Nations.

(5) **SECURITY COUNCIL.**—The term “Security Council” means the Security Council of the United Nations.

(6) **UNITED NATIONS MEMBER.**—The term “United Nations member” means any country that is a member of the United Nations.

(7) **UNITED NATIONS PEACEKEEPING OPERATION.**—The term “United Nations peacekeeping operation” means any United

Nations-led operation to maintain or restore international peace or security that—

(A) is authorized by the Security Council; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping activities.

Subtitle B—Arrearages to the United Nations

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS

SEC. 911. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) FISCAL YEAR 1998.—

(A) **REGULAR ASSESSMENTS.**—Amounts appropriated by title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading “Contributions to International Organizations”, are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(B) **PEACEKEEPING ASSESSMENTS.**—Amounts appropriated by title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading “Contributions for International Peacekeeping Activities”, are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(2) **FISCAL YEAR 1999.**—Amounts appropriated under the heading “Arrearage Payments” in title IV of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277), are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(3) **FISCAL YEAR 2000.**—There are authorized to be appropriated to the Department of State for payment of arrearages owed by the United States described in subsection (b) as of September 30, 1997, \$244,000,000 for fiscal year 2000. Amounts appropriated pursuant to this paragraph shall be available for obligation and expenditure subject to the provisions of this title.

(b) **LIMITATION.**—Amounts made available under subsection (a) are authorized to be available only—

(1) to pay the United States share of assessments for the regular budget of the United Nations;

(2) to pay the United States share of United Nations peacekeeping operations;

(3) to pay the United States share of United Nations specialized agencies; and

(4) to pay the United States share of other international organizations.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.

SEC. 912. OBLIGATION AND EXPENDITURE OF FUNDS.

(a) IN GENERAL.—Funds made available pursuant to section 911 may be obligated and expended only if the requirements of subsections (b) and (c) of this section are satisfied.

(b) OBLIGATION AND EXPENDITURE UPON SATISFACTION OF CERTIFICATION REQUIREMENTS.—Subject to subsections (e) and (f), funds made available pursuant to section 911 may be obligated and expended only in the following allotments and upon the following certifications:

(1) Amounts made available for fiscal year 1998, upon the certification described in section 921.

(2) Amounts made available for fiscal year 1999, upon the certification described in section 931.

(3) Amounts authorized to be appropriated for fiscal year 2000, upon the certification described in section 941.

(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 30 days prior to the payment of the funds.

(d) TRANSMITTAL OF CERTIFICATIONS.—Certifications made under this chapter shall be transmitted by the Secretary of State to the appropriate congressional committees.

(e) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 1999 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 1999 may be obligated or expended pursuant to subsection (b)(2) even if the Secretary of State cannot certify that the condition described in section 931(b)(1) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive the condition described in paragraph (1) of this subsection may be exercised only if the Secretary of State—

(i) determines that substantial progress towards satisfying the condition has been made and that the expenditure of funds pursuant to that paragraph is important to the interests of the United States; and

(ii) has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1),

the condition described in that paragraph shall be deemed to have been satisfied for purposes of making any certification under section 941.

(3) **ADDITIONAL REQUIREMENT.**—If the authority to waive a condition under paragraph (1)(A) is exercised, the Secretary of State shall notify the United Nations that the Congress does not consider the United States obligated to pay, and does not intend to pay, arrearages that have not been included in the contested arrearages account or other mechanism described in section 931(b)(1).

(f) **WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 2000 FUNDS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 2000 may be obligated or expended pursuant to subsection (b)(3) even if the Secretary of State cannot certify that the condition described in paragraph (1) of section 941(b) has been satisfied.

(2) **REQUIREMENTS.**—

(A) **IN GENERAL.**—The authority to waive a condition under paragraph (1) may be exercised only if the Secretary of State has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) **EFFECT ON SUBSEQUENT CERTIFICATION.**—If the Secretary of State exercises the authority of paragraph (1) with respect to a condition, such condition shall be deemed to have been satisfied for purposes of making any certification under section 941.

SEC. 913. FORGIVENESS OF AMOUNTS OWED BY THE UNITED NATIONS TO THE UNITED STATES.

(a) **FORGIVENESS OF INDEBTEDNESS.**—Subject to subsection (b), the President is authorized to forgive or reduce any amount owed by the United Nations to the United States as a reimbursement, including any reimbursement payable under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945.

(b) **LIMITATIONS.**—

(1) **TOTAL AMOUNT.**—The total of amounts forgiven or reduced under subsection (a) may not exceed \$107,000,000.

(2) **RELATION TO UNITED STATES ARREARAGES.**—Amounts shall be forgiven or reduced under this section only to the same extent as the United Nations forgives or reduces amounts owed by the United States to the United Nations as of September 30, 1997.

(c) **REQUIREMENTS.**—The authority in subsection (a) shall be available only to the extent and in the amounts provided in advance in appropriations Acts.

(d) **CONGRESSIONAL NOTIFICATION.**—Before exercising any authority in subsection (a), the President shall notify the appropriate congressional committees in accordance with the same procedures as are applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(e) **EFFECTIVE DATE.**—This section shall take effect on the date a certification is transmitted to the appropriate congressional committees under section 931.

CHAPTER 2—UNITED STATES SOVEREIGNTY**SEC. 921. CERTIFICATION REQUIREMENTS.**

(a) **CONTENTS ON CERTIFICATION.**—A certification described in this section is a certification by the Secretary of State that the following conditions are satisfied:

(1) **SUPREMACY OF THE UNITED STATES CONSTITUTION.**—No action has been taken by the United Nations or any of its specialized or affiliated agencies that requires the United States to violate the United States Constitution or any law of the United States.

(2) **NO UNITED NATIONS SOVEREIGNTY.**—Neither the United Nations nor any of its specialized or affiliated agencies—

(A) has exercised sovereignty over the United States; or

(B) has taken any steps that require the United States to cede sovereignty.

(3) **NO UNITED NATIONS TAXATION.**—

(A) **NO LEGAL AUTHORITY.**—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has the authority under United States law to impose taxes or fees on United States nationals.

(B) **NO TAXES OR FEES.**—Except as provided in subparagraph (D), a tax or fee has not been imposed on any United States national by the United Nations or any of its specialized or affiliated agencies.

(C) **NO TAXATION PROPOSALS.**—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has, on or after October 1, 1996, officially approved any formal effort to develop, advocate, or promote any proposal concerning the imposition of a tax or fee on any United States national in order to raise revenue for the United Nations or any such agency.

(D) **EXCEPTION.**—This paragraph does not apply to—

(i) fees for publications or other kinds of fees that are not tantamount to a tax on United States citizens;

(ii) the World Intellectual Property Organization; or

(iii) the staff assessment costs of the United Nations and its specialized or affiliated agencies.

(4) **NO STANDING ARMY.**—The United Nations has not, on or after October 1, 1996, budgeted any funds for, nor taken any official steps to develop, create, or establish any special agreement under Article 43 of the United Nations Charter to make available to the United Nations, on its call, the armed forces of any member of the United Nations.

(5) **NO INTEREST FEES.**—The United Nations has not, on or after October 1, 1996, levied interest penalties against the United States or any interest on arrearages on the annual assessment of the United States, and neither the United Nations nor its specialized agencies have, on or after October 1, 1996, amended their financial regulations or taken any other action that would permit interest penalties to be levied against the

United States or otherwise charge the United States any interest on arrearages on its annual assessment.

(6) UNITED STATES REAL PROPERTY RIGHTS.—Neither the United Nations nor any of its specialized or affiliated agencies has exercised authority or control over any United States national park, wildlife preserve, monument, or real property, nor has the United Nations nor any of its specialized or affiliated agencies implemented plans, regulations, programs, or agreements that exercise control or authority over the private real property of United States citizens located in the United States without the approval of the property owner.

(7) TERMINATION OF BORROWING AUTHORITY.—

(A) PROHIBITION ON AUTHORIZATION OF EXTERNAL BORROWING.—On or after the date of enactment of this Act, neither the United Nations nor any specialized agency of the United Nations has amended its financial regulations to permit external borrowing.

(B) PROHIBITION OF UNITED STATES PAYMENT OF INTEREST COSTS.—The United States has not, on or after October 1, 1984, paid its share of any interest costs made known to or identified by the United States Government for loans incurred, on or after October 1, 1984, by the United Nations or any specialized agency of the United Nations through external borrowing.

(b) TRANSMITTAL.—The Secretary of State may transmit a certification under subsection (a) at any time during fiscal year 1998 or thereafter if the requirements of the certification are satisfied.

CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS

SEC. 931. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—A certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in section 921 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) CONTESTED ARREARAGES.—The United Nations has established an account or other appropriate mechanism with respect to all United States arrearages incurred before the date of enactment of this Act with respect to which payments are not authorized by this Act, and the failure to pay amounts specified in the account does not affect the application of Article 19 of the Charter of the United Nations. The account established under this paragraph may be referred to as the “contested arrearages account”.

(2) LIMITATION ON ASSESSED SHARE OF BUDGET FOR UNITED NATIONS PEACEKEEPING OPERATIONS.—The assessed share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

(3) **LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.**—The share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member.

CHAPTER 4—BUDGET AND PERSONNEL REFORM

SEC. 941. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied.

(2) **SPECIFIED CERTIFICATION.**—A certification described in this section is also a certification that, with respect to the United Nations or a particular designated specialized agency, the conditions in subsection (b)(4) applicable to that organization are satisfied, regardless of whether the conditions in subsection (b)(4) applicable to any other organization are satisfied, if the other conditions in subsection (b) are satisfied.

(3) **EFFECT OF SPECIFIED CERTIFICATION.**—Funds made available under section 912(b)(3) upon a certification made under this section with respect to the United Nations or a particular designated specialized agency shall be limited to that portion of the funds available under that section that is allocated for the organization with respect to which the certification is made and for any other organization to which none of the conditions in subsection (b) apply.

(4) **LIMITATION.**—A certification described in this section shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in sections 921 and 931 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) **LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.**—The share of the total of all assessed contributions for the regular budget of the United Nations, or any designated specialized agency of the United Nations, does not exceed 20 percent for any single United Nations member.

(2) INSPECTORS GENERAL FOR CERTAIN ORGANIZATIONS.—

(A) **ESTABLISHMENT OF OFFICES.**—Each designated specialized agency has established an independent office of inspector general to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the organization.

(B) **APPOINTMENT OF INSPECTORS GENERAL.**—The Director General of each designated specialized agency has appointed an inspector general, with the approval of the member states, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(C) ASSIGNED FUNCTIONS.—Each inspector general appointed under subparagraph (A) is authorized to—

(i) make investigations and reports relating to the administration of the programs and operations of the agency concerned;

(ii) have access to all records, documents, and other available materials relating to those programs and operations of the agency concerned; and

(iii) have direct and prompt access to any official of the agency concerned.

(D) COMPLAINTS.—Each designated specialized agency has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the inspector general of the agency.

(E) COMPLIANCE WITH RECOMMENDATIONS.—Each designated specialized agency has in place procedures designed to ensure compliance with the recommendations of the inspector general of the agency.

(F) AVAILABILITY OF REPORTS.—Each designated specialized agency has in place procedures to ensure that all annual and other relevant reports submitted by the inspector general to the agency are made available to the member states without modification except to the extent necessary to protect the privacy rights of individuals.

(3) NEW BUDGET PROCEDURES FOR THE UNITED NATIONS.—The United Nations has established and is implementing budget procedures that—

(A) require the maintenance of a budget not in excess of the level agreed to by the General Assembly at the beginning of each United Nations budgetary biennium, unless increases are agreed to by consensus; and

(B) require the system-wide identification of expenditures by functional categories such as personnel, travel, and equipment.

(4) SUNSET POLICY FOR CERTAIN UNITED NATIONS PROGRAMS.—

(A) EXISTING AUTHORITY.—The Secretary General and the Director General of each designated specialized agency have used their existing authorities to require program managers within the United Nations Secretariat and the Secretariats of the designated specialized agencies to conduct evaluations of United Nations programs approved by the General Assembly, and of programs of the designated specialized agencies, in accordance with the standardized methodology referred to in subparagraph (B).

(B) DEVELOPMENT OF EVALUATION CRITERIA.—

(i) UNITED NATIONS.—The Office of Internal Oversight Services has developed a standardized methodology for the evaluation of United Nations programs approved by the General Assembly, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(ii) DESIGNATED SPECIALIZED AGENCIES.—Patterned on the work of the Office of Internal Oversight Services of the United Nations, each designated specialized agency has developed a standardized methodology for the evaluation of the programs of the agency, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(C) PROCEDURES.—Consistent with the July 16, 1997, recommendations of the Secretary General regarding a sunset policy and results-based budgeting for United Nations programs, the United Nations and each designated specialized agency has established and is implementing procedures—

(i) requiring the Secretary General or the Director General of the agency, as the case may be, to report on the results of evaluations referred to in this paragraph, including the identification of programs that have met criteria for continuing relevance and effectiveness and proposals to terminate or modify programs that have not met such criteria; and

(ii) authorizing an appropriate body within the United Nations or the agency, as the case may be, to review each evaluation referred to in this paragraph and report to the General Assembly on means of improving the program concerned or on terminating the program.

(D) UNITED STATES POLICY.—It shall be the policy of the United States to seek adoption by the United Nations of a resolution requiring that each United Nations program approved by the General Assembly, and to seek adoption by each designated specialized agency of a resolution requiring that each program of the agency, be subject to an evaluation referred to in this paragraph and have a specific termination date so that the program will not be renewed unless the evaluation demonstrates the continuing relevance and effectiveness of the program.

(E) DEFINITION.—For purposes of this paragraph, the term “United Nations program approved by the General Assembly” means a program approved by the General Assembly of the United Nations which is administered or funded by the United Nations.

(5) UNITED NATIONS ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS.—

(A) IN GENERAL.—The United States has a seat on the United Nations Advisory Committee on Administrative and Budgetary Questions or the five largest member contributors each have a seat on the Advisory Committee.

(B) DEFINITION.—As used in this paragraph, the term “5 largest member contributors” means the 5 United Nations member states that, during a United Nations budgetary biennium, have more total assessed contributions than any other United Nations member state to the aggregate of the United Nations regular budget and the budget (or budgets) for United Nations peacekeeping operations.

(6) ACCESS BY THE GENERAL ACCOUNTING OFFICE.—The United Nations has in effect procedures providing access by the United States General Accounting Office to United Nations financial data to assist the Office in performing nationally mandated reviews of United Nations operations.

(7) PERSONNEL.—

(A) APPOINTMENT AND SERVICE OF PERSONNEL.—The Secretary General—

(i) has established and is implementing procedures that ensure that staff employed by the United Nations is appointed on the basis of merit consistent with Article 101 of the United Nations Charter; and

(ii) is enforcing those contractual obligations requiring worldwide availability of all professional staff of the United Nations to serve and be relocated based on the needs of the United Nations.

(B) CODE OF CONDUCT.—The General Assembly has adopted, and the Secretary General has the authority to enforce and is effectively enforcing, a code of conduct binding on all United Nations personnel, including the requirement of financial disclosure statements binding on senior United Nations personnel and the establishment of rules against nepotism that are binding on all United Nations personnel.

(C) PERSONNEL EVALUATION SYSTEM.—The United Nations has adopted and is enforcing a personnel evaluation system.

(D) PERIODIC ASSESSMENTS.—The United Nations has established and is implementing a mechanism to conduct periodic assessments of the United Nations payroll to determine total staffing, and the results of such assessments are reported in an unabridged form to the General Assembly.

(E) REVIEW OF UNITED NATIONS ALLOWANCE SYSTEM.—The United States has completed a thorough review of the United Nations personnel allowance system. The review shall include a comparison of that system with the United States civil service system, and shall make recommendations to reduce entitlements to allowances and allowance funding levels from the levels in effect on January 1, 1998.

(8) REDUCTION IN BUDGET AUTHORITIES.—The designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000–01 from the 1998–99 biennium budget levels of the respective agencies.

(9) NEW BUDGET PROCEDURES AND FINANCIAL REGULATIONS.—Each designated specialized agency has established procedures to—

(A) require the maintenance of a budget that does not exceed the level agreed to by the member states of the organization at the beginning of each budgetary biennium, unless increases are agreed to by consensus;

(B) require the identification of expenditures by functional categories such as personnel, travel, and equipment; and

(C) require approval by the member states of the agency's supplemental budget requests to the Secretariat in advance of expenditures under those requests.

(10) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET FOR THE DESIGNATED SPECIALIZED AGENCIES.—The share of the total of all assessed contributions for any designated specialized agency does not exceed 22 percent for any single member of the agency.

Subtitle C—Miscellaneous Provisions

SEC. 951. STATUTORY CONSTRUCTION ON RELATION TO EXISTING LAWS.

Except as otherwise specifically provided, nothing in this title may be construed to make available funds in violation of any provision of law containing a specific prohibition or restriction on the use of the funds, including section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 22 U.S.C. 287e note), section 151 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 22 U.S.C. 287e note), and section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 22 U.S.C. 287e note).

SEC. 952. PROHIBITION ON PAYMENTS RELATING TO UNIDO AND OTHER INTERNATIONAL ORGANIZATIONS FROM WHICH THE UNITED STATES HAS WITHDRAWN OR RESCINDED FUNDING.

None of the funds authorized to be appropriated by this title shall be used to pay any arrearage for—

- (1) the United Nations Industrial Development Organization;
- (2) any costs to merge that organization into the United Nations;
- (3) the costs associated with any other organization of the United Nations from which the United States has withdrawn including the costs of the merger of such organization into the United Nations; or
- (4) the World Tourism Organization, or any other international organization with respect to which Congress has rescinded funding.

3. United Nations Headquarters Agreement Act

Partial text of Public Law 80-357 [S.J. Res. 144], 61 Stat. 756, approved August 4, 1947

JOINT RESOLUTION Authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes.¹

Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of said Charter was deposited on August 8, 1945; and

Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

Whereas article 104 of the Charter provides that "The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes"; and

Whereas article 105 of the Charter provides that:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."; and

Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

Whereas the interim arrangements concluded on June 26, 1945, by the governments represented at the United Nations Conference on International Organization instructed the Preparatory Commission established in pursuance of the arrangements to "make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization"; and

Whereas during the labors of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimately by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited

¹ 22 U.S.C. 287 note.

- the United Nations “to locate the seat of the United Nations Organization within the United States”; and
- Whereas the General Assembly on December 14, 1946, resolved “that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-eighth Street, the East River, and East Forty-second Street”; and
- Whereas the General Assembly resolved on December 14, 1946, “That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York” and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and
- Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above “the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connection with the temporary headquarters of the United Nations”; and
- Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and city of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the United States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and
- Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the “agreement”), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: *Provided,* That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows:²

* * * * *

²For text of the agreement, see *Legislation on Foreign Relations*, vol. V.

SEC. 2. For the purpose of carrying out the obligations of the United States under said agreement and supplemental agreements with respect to United States assurances that the United Nations shall not be dispossessed of its property in the headquarters district, and with respect to the establishment of radio facilities and the possible establishment of an airport:

(a) The President of the United States, or any official or governmental agency authorized by the President, may acquire in the name of the United States any property or interest therein by purchase, donation, or other means of transfer, or may cause proceedings to be instituted for the acquisition of the same by condemnation.

(b) Upon the request of the President, or such officer as the President may designate, the Attorney General of the United States shall cause such condemnation or other proceedings to be instituted in the name of the United States in the district court of the United States for the district in which the property is situated and such court shall have full jurisdiction of such proceedings, and any condemnation proceedings shall be conducted in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended, and the Act of February 26, 1931 (46 Stat. 1421), as amended.

(c) After the institution of any such condemnation proceedings, possession of the property may be taken at any time the President, or such officer as he may designate, determines is necessary, and the court shall enter such orders as may be necessary to effect entry and occupancy of the property.

(d) The President of the United States, or any officer or governmental agency duly authorized by the President, may, in the name of the United States, transfer or convey possession of and title to any interest in any property acquired or held by the United States, pursuant to paragraph (a) above, to the United Nations on the terms provided in the agreement or in any supplemental agreement, and shall execute and deliver such conveyances and other instruments and perform such other acts in connection therewith as may be necessary to carry out the provisions of the agreement.

(e) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required to enable the United States to carry out the undertakings hereby authorized: *Provided*, That any money appropriated under this authorization shall be spent only on a basis of reimbursement by the United Nations in accordance with section 3 of the agreement, and that the money thus reimbursed shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

SEC. 3. The President, or the Secretary of State under his direction, is authorized to enter into agreements with the State of New York or any other State of the United States and to the extent not inconsistent with State law, with any one or more of the political subdivisions thereof in aid of effectuating the provisions of the agreement.

SEC. 4. Any States, or, to the extent not inconsistent with State law, any political subdivisions thereof, affected by the establishment of the headquarters of the United Nations in the United States are authorized to enter into agreements with the United Na-

tions or with each other consistent with the agreement and for the purpose of facilitating compliance with the same: *Provided*, That, except in cases of emergency and agreements of a routine contractual character, a representative of the United States, to be appointed by the Secretary of State, may, at the discretion of the Secretary of State, participate in the negotiations, and that any such agreement entered into by such State or States or political subdivisions thereof shall be subject to approval by the Secretary of State.

SEC. 5. The President is authorized to make effective with respect to the temporary headquarters of the United Nations in the State of New York, on a provisional basis, such of the provisions of the agreement as he may deem appropriate, having due regard for the needs of the United Nations at its temporary headquarters.

SEC. 6. Nothing in the agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13(3)(e) of the agreement, and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such law.

4. U.S. Participation in Certain International Organizations

Partial text of Public Law 81-806 [H.J. Res. 334], 64 Stat. 902, approved September 21, 1950

JOINT RESOLUTION To amend certain laws providing for membership and participation by the United States in certain international organizations.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following laws of the United States are hereby amended in the following particulars: * * *¹

SEC. 2. All financial contributions by the United States to the normal operations of the international organizations covered by this Act, which member states are obligated to support annually, shall be limited to the amounts provided in this Act: *Provided,* That contributions for special projects not regularly budgeted by such international organizations shall not be subject to the above limitation.

All financial contributions by the United States to international organizations in which the United States participates as a member shall be made by or with the consent of the Department of States regardless of the appropriation from which any such contributions is made. The Secretary of State shall report annually to the Congress on the extent and disposition of such contributions.

¹This resolution raised funding authorizations for U.S. participation in international organizations: American International Institute for the Protection of Childhood (22 U.S.C. 269b—obsolete), United Nations Food and Agricultural Organization (22 U.S.C. 279a), South Pacific Commission (22 U.S.C. Sup. III, 280b(a)), World Health Organization (22 U.S.C. Sup. III, 290b), and International Labour Conference, International Labor Organization (22 U.S.C. Sup. III, 272a(a) and (b)).

5. Appropriations Limitation on Contributions to International Organizations¹

Partial text of Public Law 92-544 [H.R. 14989], 86 Stat. 1109, approved October 25, 1972

AN ACT Making appropriations for the Departments of State, Justice and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, namely:

* * * * *

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS^{1, 2}

* * * *Provided,* That after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations

¹ Restriction in Public Law 82-495 (66 Stat. 550, July 10, 1952). Department of State Appropriation Act, 1953, is considered permanent legislation with respect to the international organizations not exempted. See 22 U.S.C. 262b. It reads as follows:

"No representative of the United States Government in any international organization after fiscal year 1953 shall make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33½ per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided,* That in exceptional circumstances necessitating a contribution by the United States in excess of 33½ per centum of the budget, a commitment requiring a United States appropriation of a larger proportion may be made after consultation by United States representatives in the organization or other appropriate officials of the Department of State with the Committees on Appropriations of the Senate and House of Representatives; *Provided, however,* That this section shall not apply to the United States representatives to the Inter-American organizations, Caribbean Commission and the Joint Support program of the International Civil Aviation Organization."

This provision was first included in sec. 602 of the Departments of State, Justice, Commerce, and the Judiciary Appropriation Act, 1952 (Public Law 83-188; 65 Stat. 599; Oct. 22, 1951).

The exemption granted to the Caribbean Commission and the Joint Support program of the International Civil Aviation Organization was added by the Department of State Appropriation Act, 1954 (Public Law 83-195; 67 Stat. 368; Aug. 5, 1953).

NOTE: In addition, there are specific legislative limitations on the percentage contribution of the United States to the following organizations:

(1) 33½ percent to the World Health Organization (Act of July 14, 1948; 22 U.S.C. 290b). However, sec. 103 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 844), stated that notwithstanding the provisions of Public Law 92-544, \$7,281,583 of the FY 1978 appropriation authorization for "International Organizations and Conferences" is authorized to be paid to the World Health Organization for any unpaid balance of the U.S. assessed contribution to such organization for the calendar years 1974 through 1977.

(2) 33½ percent to the Food and Agriculture Organization (Act of July 31, 1945; 22 U.S.C. 279a);

(3) 25 percent to the International Labor Organization (Act of June 30, 1948; 22 U.S.C. 272a);

(4) 25 percent to the NATO Parliamentary Conference (Act of July 11, 1956; 22 U.S.C. 1928b);

and

(5) Not to exceed 20 per centum of the total contributions assessed for any period to administer the International Coffee Agreement (TIAS 5505, 14 UST 1911, Sept. 28, 1962), and such amount shall not exceed \$150,000 for any fiscal year, to the International Coffee Organization (sec. 6 of Public Law 89-23; 79 Stat. 113; approved May 22, 1965). However, sec. 428 of Public

or any affiliated agency in excess of 25 per centum¹ of the total annual assessment of such organization. Appropriations are authorized and contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or 33 $\frac{1}{3}$ per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements.³

* * * * *

Law 103-236 provides that no funds authorized to be appropriated by that Act may be made available for the ICO.

²See also secs. 114 and 115 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1020), which provided other limitations on certain U.S. contributions to international organizations.

³Sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94-141), inserted a period after "organization", struck out the text following it, and inserted the language beginning with "Appropriations are authorized". Formerly, the section following "organization" read "except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization."

6. U.N. Provisions in Foreign Relations Authorization Acts

NOTE.—For provisions in recent Foreign Relations Authorization Act relating to the United Nations, see:

—Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, especially title VII, subtitle B (Public Law 106–113; 113 Stat. 1536);

—Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, especially title IV, part A (Public Law 103–236; 108 Stat. 382);

—Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, secs. 161, 170, 174–175, 212, 192, and 364 (Public Law 102–138; 105 Stat. 647);

—Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, secs. 406–408 (Public Law 101–246; 104 Stat. 15);

—Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, title VII, and sec. 1211 (Public Law 100–204; 101 Stat. 1331);

—Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, sec. 151 (Public Law 99–93; 99 Stat. 405);

—Department of State Authorization Act, Fiscal Years 1984 and 1985, secs. 113–116, 118–119 (Public Law 98–164; 97 Stat. 1017);

—Department of State Authorization Act, Fiscal Years 1982 and 1983, secs. 104, 108, 109 (Public Law 97–241; 96 Stat. 273);

—Foreign Relations Authorization Act, Fiscal Year 1979, secs. 103 and 609 (Public Law 95–426; 92 Stat. 963);

—Foreign Relations Authorization Act, Fiscal Year 1978, sec. 503 (Public Law 95–105; 91 Stat. 844); and

—Foreign Relations Authorization Act, Fiscal Year 1976, secs. 205 and 503 (Public Law 94–141; 89 Stat. 756).

7. United Nations Peacekeeping Forces in the Middle East

Public Law 94-37 [S. 818], Stat. 216, approved June 19, 1975, as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 408, approved August 16, 1985

AN ACT To authorize United States payments to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State may, to the extent funds are authorized and appropriated for this purpose, make payments of¹ such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations peacekeeping forces in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter, notwithstanding the limitation on contributions to international organizations contained in Public Law 92-544 (86 Stat. 1109).²

¹The language to this point beginning with “the Secretary of State,” was inserted in lieu of “there is hereby authorized to be appropriated to the Department of State” by sec. 103 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 408).

²The Department of State Appropriation Act, 1980 (Public Law 96-68; 93 Stat. 417), appropriated \$67,000,000 for U.S. payment to the United Nations peacekeeping forces in the Middle East.

8. Response to United Nations Resolution on Zionism

NOTE.—On December 16, 1991, the United Nations General Assembly voted to “revoke the determination contained in its resolution 3379 (XXX) of 10 November 1975.”, making obsolete those Public Laws and resolutions calling for the repeal of Resolution 3379: Public Law 101–317 [S.J. Res. 246], 104 Stat. 285, approved June 29, 1990; Public Law 100–169 [S.J. Res. 205], 101 Stat. 913, approved November 17, 1987; Public Law 99–90 [S.J. Res. 98], 99 Stat. 385, approved August 15, 1985; House Resolution 855, 94th Congress, agreed to November 11, 1975; Senate Resolution 288, 94th Congress, agreed to October 28, 1975, and Senate Concurrent Resolution 73, 94th Congress, agreed to November 12, 1975.

9. United Nations Environment Program Participation Act of 1973

Public Law 93-188 [H.R. 6788], 87 Stat. 713, approved December 15, 1973

AN ACT To provide for participation by the United States in the United Nations environment program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “United Nations Environment Program Participation Act of 1973”.

SEC. 2. It is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern, and in order to assist the implementation of this policy, to contribute funds to the United Nations Environmental Fund for the support of international measures to protect and improve the environment.

SEC. 3. There is authorized to be appropriated \$40,000,000 for contributions to the United Nations Environment Fund, which amount is authorized to remain available until expended, and which may be used upon such terms and conditions as the President may specify: *Provided,* That not more than \$10,000,000 may be appropriated for use in fiscal year 1974.¹

¹The Foreign Assistance Appropriations Act, 1977, provided \$10,000,000 for necessary expenses to carry out the provisions of sec. 2.

10. Support of Peaceful Settlement of Disputes

Executive Order 10206, January 19, 1951, 16 F.R. 529, 22 U.S.C. 287d-1 note.

By virtue of the authority vested in me by the Constitution and the statutes, including the United Nations Participation Act of 1945 (59 Stat. 619), as amended, hereinafter referred to as the Act, and the act of August 8, 1950 (Public Law 673, 81st Congress), and as President of the United States, it is hereby ordered as follows:

1. The Secretary of State, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, is authorized, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and are not involving the employment of armed forces contemplated by Chapter VII of the United Nations Charter, to request the Secretary of Defense to detail personnel of the armed forces to the United Nations, and to furnish facilities, services, or other assistance and to loan supplies and equipment to the United Nations in an agreed fair share of the United States under such terms and conditions as the Secretary of State and the Secretary of Defense shall jointly determine and in accordance with and subject to the provisions of paragraphs (1), (2), and (3) of section 7(a) of the Act, and the Secretary of Defense is authorized to comply with the request of the Secretary of State, giving due regard to the requirements of the national defense.

2. The Secretary of State, in accordance with and subject to the provisions of section 7(b) of the Act, shall require reimbursement from the United Nations for the expense thereby incurred by the United States whenever personnel or assistance is made available to the United Nations except that in exceptional circumstances or when the Secretary of State finds it to be in the national interest, he may, after consultation with the Secretary of Defense, waive, in whole or in part, the requirement of such reimbursement.

3. The Secretary of Defense, in accordance with and subject to the provisions of section 7(a)(1) of the Act, may authorize personnel of the armed forces detailed to the United Nations to accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso of section 7(a)(1) of the Act, and (b) extraordinary expenses and perquisites incident to such detail.

11. Privileges and Immunities

a. International Organizations Immunities Act, as amended

Partial text of Public Law 79-291 [H.R. 4489], 59 Stat. 669, approved December 29, 1945, as amended by Public Law 89-353 [H.R. 8210], 80 Stat. 5, approved February 2, 1966; Public Law 93-161 [H.R. 8219], 87 Stat. 635, approved November 27, 1973; Public Law 96-60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 403, approved August 15, 1979; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2159], 97 Stat. 1017 at 1023, approved November 22, 1983; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-362 [International Organizations Immunities Act: Organization of Eastern Caribbean States; H.R. 4162], 102 Stat. 819, approved July 6, 1988; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT To extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes.

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

TITLE I

SECTION 1.¹ For the purposes of this title the term “International organization” means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time revoke the designation of any international organization under this section, whereupon the international organization in question shall

¹ 22 U.S.C. 288.

cease to be classed as an international organization for the purposes of this title.²

Executive Order No.	Date	Organization
9698	Feb. 19, 1946	The Food and Agriculture Organization. The International Labor Organization. The United Nations.
9751	July 11, 1946	Inter-American Institute of Agricultural Sciences. Inter-American Statistical Institute. International Bank for Reconstruction and Development. International Monetary Fund.
9823	Jan. 24, 1947	International Wheat Advisory Committee. (International Wheat Council.)
9863	May 31, 1947	United Nations Educational, Scientific, and Cultural Organization. International Civil Aviation Organization. International Telecommunication Union.
9911	Dec. 10, 1947	International Cotton Advisory Committee.
9972	June 25, 1948	International Joint Commission, United States and Canada.
10025	Dec. 30, 1948	World Health Organization.
10086	Nov. 25, 1949	South Pacific Commission.
10133	June 27, 1950	Organization for European Economic Cooperation.
10228	Mar. 26, 1951	Inter-American Defense Board.
10335	Mar. 28, 1952	Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now the Intergovernmental Committee for European Migration).
10533	June 3, 1954	Organization of American States (includes the Pan American Union, previously designated Feb. 19, 1946, by Executive Order No. 9698).
10676	Sept. 1, 1956	World Meteorological Organization.
10680	Oct. 2, 1956	International Finance Corporation.
10727	Aug. 31, 1957	International Atomic Energy Agency (included the Preparatory Commission of the International Atomic Energy Agency).
10769	May 20, 1958	Universal Postal Union.
10795	Dec. 13, 1958	International Hydrographic Bureau.
10864	Feb. 18, 1960	Intergovernmental Maritime Consultative Organization. Pan American Health Organization (includes the Pan American Sanitary Bureau, previously designated July 11, 1946, by Executive Order No. 9751).
10873	Apr. 8, 1960	Inter-American Development Bank.
10983	Dec. 30, 1961	Caribbean Organization.
11059	Oct. 23, 1962	Inter-American Tropical Tuna Commission. Great Lakes Fishery Commission. International Pacific Halibut Commission.
11225	May 22, 1965	International Coffee Organization.
11227	June 2, 1965	Interim Communications Satellite Committee.
11277	Apr. 30, 1966	International Telecommunications Satellite Consortium.
11283	May 27, 1966	International Cotton Institute.
11334	Mar. 7, 1967	Asian Development Bank.
11363	July 20, 1967	International Secretariat for Volunteer Service.
11372	Sept. 18, 1967	Lake Ontario Claims Tribunal (status revoked by Executive Order 11439, Dec. 7, 1968).
11484	Sept. 29, 1969	United International Bureau for the Protection of Intellectual Property (BIRPI).
11596	June 5, 1971	Customs Cooperation Council.
11718	May 14, 1973	International Telecommunications Satellite Organization.
11760	Jan. 17, 1974	European Space Agency (superseding Executive Orders 11318 and 11351).
11767	Feb. 19, 1974	Organization of African Unity.
11866	June 20, 1975	World Intellectual Property Organization.
11966	Jan. 19, 1977	International Development Association. International Centre for Settlement of Investment Disputes. International Telecommunications Satellite Organization.
11977	Mar. 14, 1977	The African Development Fund. The International Fertilizer Development Center.
12238	Sept. 12, 1980	International Maritime Satellite Organization.

²The international organizations listed below this note are currently designated by the President as public international organizations entitled to enjoy the privileges, exemptions and immunities of the International Organizations Immunities Act.

Sec. 283 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 110 Stat. 980; 22 U.S.C. 288 note) provided the following:

“SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) “IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.”.

Executive Order No.	Date	Organization
12359	Apr. 22, 1982	The Multinational Force and Observers. The International Food Policy Research Institute (except for those provided by sec. 2(a)-(c), the last clause of sec. 2(d), and sec. 7(b).
12403	Feb. 8, 1983	The African Development Bank.
12425	June 16, 1983	The International Criminal Police Organization (except for those provided by sec. 2(c), the portions of secs. 2(d) and 3 relating to customs duties and federal internal-revenue importation taxes, and secs. 4 through 6).
12467	Mar. 2, 1984	The International Boundary and Water Commission, United States and Mexico.
12508	Mar. 22, 1985	World Tourism Organization.
12567	Oct. 2, 1986	Inter-American Investment Corporation. Commission for the Study of Alternatives to the Panama Canal. Pacific Salmon Commission
12628	Mar. 8, 1988	United Nations Industrial Development Organization.
12643	June 23, 1988	International Committee of the Red Cross.
12647	Aug. 2, 1988	Multilateral Investment Guarantee Organization.
12651	Sep. 9, 1988	Offices of the Commission of the European Communities.
12669	Feb. 20, 1989	Organization of Eastern Caribbean States.
12732	Oct. 31, 1990	International Fund for Agricultural Development.
12766	June 18, 1991	European Bank for Reconstruction and Development. European Space Agency.
12842	March 29, 1993	International Development Law Institute.
12894	January 26, 1994	North Pacific Marine Science Organization.
12895	January 26, 1994	North Pacific Anadromous Fish Commission.
12904	March 16, 1994	Commission for Environmental Cooperation. Commission for Labor Cooperation. Border Environment Cooperation Commission. North American Development Bank.
12956	March 13, 1995	Israel-United States Binational Industrial Research and Development Foundation.
12986	January 18, 1996	International Union for Conservation of Nature and Natural Resources (except for those provided by sec. 2(b), 2(c), and 7(b)).
12997	April 1, 1996	Korean Peninsula Energy Development Organization.
13029	December 3, 1996	Organization for Security and Cooperation in Europe (formerly the Conference on Security and Cooperation in Europe, change effective January 1, 1995).
13042	April 9, 1997	World Trade Organization.
13049	June 11, 1997	Organization for the Prohibition of Chemical Weapons.
13052	June 30, 1997	Hong Kong Economic and Trade Offices.
13097	August 7, 1998	Interparliamentary Union.

SEC. 2.³ International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

- (i) to contract;
- (ii) to acquire and dispose of real and personal property;
- (iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purposes of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be enti-

³ 22 U.S.C. 288a.

tled shall be those accorded under similar circumstances to foreign governments.

SEC. 3.⁴ Pursuant to regulations prescribed by the Commissioner of Customs with approval of the Secretary of the Treasury, the baggage and effects of aliens, officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

SEC. 4.⁵ The Internal Revenue Code is hereby amended as follows: * * *

SEC. 5. (a)⁶ Effective January 1, 1946, section 209(b) of the Social Security Act, defining the term "employment" for the purposes of title II of the Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

"(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

(b)⁷ No taxes shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (included penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209(b) of such Act, as amended.

SEC. 6.⁸ International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

SEC. 7.⁹ (a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and de-

⁴ 22 U.S.C. 288b.

⁵ Sec. 4 amended 26 U.S.C. at: sec. 892, 893(a), 3121(b)(15), 3306(c)(16), 3401(a)(5), 4253(c), 4263(b), 4272A(d) (later repealed by sec. 4(a) of Public Law 85-475 (72 Stat. 260)), and 7701(a)(18).

⁶ 42 U.S.C. 410(a)(15).

⁷ 26 U.S.C. 3101 Historical Note, 42 U.S.C. 401 Historical Note.

⁸ 22 U.S.C. 288c.

⁹ 22 U.S.C. 288d.

parture from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

(c)¹⁰ Section 3 of the Immigration Act approved March 26, 1924, as amended (U.S.C., title 8, sec. 203), is hereby amended * * *

(d)¹¹ Section 15 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 215), is hereby amended to read as follows: * * *

¹⁰Sec. 3 of the Immigration Act of May 26, 1924 (8 U.S.C. 203), was repealed and replaced by sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (Public Law 82-414, 66 Stat. 167, 8 U.S.C. 1101(a)(15)). Sec. 7(c) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 101(a)(15)(G) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)(G)), which provides:

“(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunity Act (55 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

“(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

“(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

“(iv) officers, or employees of such international organizations, and the members of their immediate families;

“(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;”

Sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)), established eighteen categories of “nonimmigrant” aliens (aliens admitted to the United States on a temporary basis, not for permanent residence here, and therefore not subject to quota restrictions). These are: Class A, Foreign government officials; Class B, Temporary visitors; Class C, Transit aliens (including aliens entitled to pass in transit to and from the United Nations headquarters in New York City); Class D, Crewmen; Class E, Treaty traders and treaty investors; Class F, Students; Class G, International organizations personnel; Class H, Temporary workers with particular skills; Class I, Foreign correspondents; Class J, Participants in a program designated by the Director of the United States Information Agency; Class K, Fiancée or fiancé of a U.S. citizen entering to conclude a marriage, or one who has married at U.S. citizen; Class L, Temporary workers previously employed in U.S.; Class M, Students in vocational training; Class N, Parent of an alien with special immigrant status; Class O, Person with extraordinary ability in science, art, education, business, or athletics, or that person’s accompanist; Class P, Athlete or performer; Class Q, Cultural exchange participant; Class R, Member of religious denomination with organization in United States; Class S, Informant critical to Federal or State law enforcement officials or critical to investigation of terrorism; Class T, Person who is a victim of a severe form of trafficking in persons; Class U, Person who has suffered substantial physical or mental abuse of certain kinds; and Class V, Beneficiary of a certain petition.

¹¹Sec. 15 of the Immigration Act of May 26, 1924 (8 U.S.C. 215) was repealed and replaced by secs. 102, 214, and 241 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102, 1184, 1251(e)). Sec. 7(d) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 102 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102), as amended, which stated:

“Sec. 102. Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

“(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and doc-

SEC. 8.¹² (a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance as a prospective representative, officer, or employee; or (3) is a member of the family or suite or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

SEC. 9.¹³ The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided*, That nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

SEC. 10. This title may be cited as the "International Organizations Immunities Act."

SEC. 11.¹⁴ The provisions of this title may be extended to the European Space Agency¹⁵ and to the Organization of Eastern Caribbean States (including any office established in the United States

umentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary the provisions of subparagraphs (A) through (C) of section 212(a)(3);

"(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of subparagraphs (A) through (C) of section 212(a)(3); and

"(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(iii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of subparagraphs (A) through (C) of section 212(a)(3)."

Sec. 212 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1182), set forth the various classes of aliens to be excluded from admission to the United States. See particularly sec. 212(a)(3), relating to security and related grounds.

¹² 22 U.S.C. 288e.

¹³ 22 U.S.C. 288f.

¹⁴ 22 U.S.C. 288f-1. Sec. 11 was added by Public Law 89-353. (80 Stat. 5).

¹⁵ Sec. 120 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1023) substituted the reference to the European Space Agency in lieu of a reference to the European Space Research Organization.

by that organization)¹⁶ in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SEC. 12.¹⁷ The provisions of this title may be extended to the Organization of African Unity and may continue to be extended to the International Labor Organization¹⁸ and the United Nations Industrial Development Organization¹⁹ in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SEC. 13.²⁰ The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SEC. 14.²¹ The International Union for Conservation of Nature and Natural Resources shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

* * * * *

¹⁶Public Law 100-362 (102 Stat. 819) added text to this point from “and to the Organization * * *”.

¹⁷22 U.S.C. 288f-2. Sec. 12 was added by Public Law 93-161 (87 Stat. 635).

¹⁸This reference to the International Labor Organization was added by Sec. 404 of the Department of State Authorization Act, Fiscal Year 1980-81 (Public Law 96-60; 93 Stat. 403).

¹⁹Sec. 406 of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-101) inserted “and the United Nations Industrial Development Organization”.

²⁰22 U.S.C. 288f-3. Sec. 13 was added by sec. 743 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1395).

²¹22 U.S.C. 288f-4. Sec. 14 was added by sec. 426 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 458).

b. Extending Certain Privileges to Representatives of Member States on the Council of the Organization of American States

Public Law 82-486 [S. 2042], 66 Stat. 516, 22 U.S.C. 288g, approved July 10, 1952, as amended by Public Law 93-149 [H.R. 5943], 87 Stat. 560, approved November 7, 1973

AN ACT To extend certain privileges to the representatives of member states and permanent observers to the Organization of American States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staff of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.¹

¹ As amended and restated by Public Law 93-149. The text formerly read: "That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) on the Council of the Organization of American States, and to members of their staffs, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States."

**c. Extending Diplomatic Privileges to the Mission of the
Commission of the European Communities**

Public Law 92-499 [S. 2700], 86 Stat. 815, 22 U.S.C. 288h, approved October 18, 1972, as amended by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987

AN ACT To extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend, or to enter into an agreement extending, to the Mission to the United States of America of the Commission of the European Communities, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof. Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

(1) the privileges and immunities described in the preceding sentence; or

(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations.¹

¹The last sentence was added by sec. 741 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1394).

**d. Extending Diplomatic Privileges to the Liaison Office of
the People's Republic of China**

**Public Law 93-22 [S. 1315], 87 Stat. 24, 22 U.S.C. 288i, approved April 20,
1973**

AN ACT To extend diplomatic privileges and immunities to the Liaison Office of the
People's Republic of China and to members thereof, and for other purposes.

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

Under such terms and conditions as he shall determine and con-
sonant with the purposes of this Act, the President is authorized
to extend to the Liaison Office of the People's Republic of China in
Washington and to the members thereof the same privileges and
immunities subject to corresponding conditions and obligations as
are enjoyed by diplomatic missions accredited to the United States
and by members thereof.

**e. Extending Certain Privileges to the International
Development Law Institute**

**Partial text of Public Law 102-511 [FREEDOM Support Act of 1992; S. 2532],
106 Stat. 3320, approved October 24, 1992**

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

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

* * * * *

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

* * * * *

SEC. 805¹ INTERNATIONAL DEVELOPMENT LAW INSTITUTE.

For purposes of the International Organizations Immunities Act
922 U.S.C. 288 and following), the International Development Law
Institute shall be considered to be a public international organiza-
tion in which the United States participates under the authority of
an Act of Congress authorizing such participation.

* * * * *

¹ 22 U.S.C. 288j.

f. Extending Certain Privileges to Hong Kong Economic and Trade Offices

Public Law 105-22 [S. 342], 111 Stat. 236, approved June 27, 1997

AN ACT To extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

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

SECTION 1.¹ EXTENSION OF CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES TO HONG KONG ECONOMIC AND TRADE OFFICES.

(a) APPLICATION OF INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT.—The provisions of the International Organizations Immunities Act (22 U.S.C. 288 et seq.) may be extended to the Hong Kong Economic and Trade Offices in the same manner, to the same extent, and subject to the same conditions as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) APPLICATION OF INTERNATIONAL AGREEMENT ON CERTAIN STATE AND LOCAL TAXATION.—The President is authorized to apply the provisions of Article I of the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, done at Washington on April 21, 1994, to the Hong Kong Economic and Trade Offices.

(c) DEFINITION.—The term “Hong Kong Economic and Trade Offices” refers to Hong Kong’s official economic and trade missions in the United States.

¹ 22 U.S.C. 288k.

g. Protection and Prevention of Crimes Against Internationally Protected Persons

Partial text of 18 United States Code; amended by Public Law 92-539 [H.R. 15883], 86 Stat. 1070, approved October 24, 1972; Public Law 94-467 [H.R. 15552], 90 Stat. 1997, approved October 8, 1976; Public Law 95-163 [H.R. 6010], 91 Stat. 1286, approved November 9, 1977; and by Public Law 95-504 [S. 2493], 92 Stat. 1705, approved October 24, 1978; Public Law 98-473 [H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; Public Law 99-646 [S. 1236], 100 Stat. 3592, approved November 10, 1986; Public Law 101-647 [S. 3266], 104 Stat. 4789, approved November 29, 1990; Public Law 103-272 [H.R. 1758], 108 Stat. 745, approved July 5, 1994; Public Law 103-322 [H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 104-132 [S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104-294 [H.R. 3723], 110 Stat. 3488, approved October 11, 1996; and by Public Law 105-314 [H.R. 3494], 112 Stat. 2974, approved October 30, 1998

§ 112.^{1,2} Protection of foreign officials, official guests, and internationally protected persons

(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined under this title³ or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon, or inflicts bodily injury⁴ shall be fined under this title⁵ or imprisoned not more than ten years, or both.

(b) Whoever willfully—

(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

¹Secs. 112, 970, 1116, 1117, and 1201 of 18 U.S.C. were enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92-539; 86 Stat. 1070). Sec. 2 of that Act provided the following:

“SEC. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnapping, and assault has resided in the several States, and that such power should remain with the States.

“The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

“Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.”

²Sec. 112 was amended and restated by sec. 5 of Public Law 94-467.

³Sec. 320101(b)(1) of Public Law 103-322 (108 Stat. 2108) struck out “not more than \$5,000” and inserted in lieu thereof “under this title”. Sec. 330016(1)(K) of the same Act made the same amendment. Sec. 604(b)(12)(A) of Public Law 104-294 (110 Stat. 3507) subsequently struck out sec. 320101(b)(1) of Public Law 103-322, but left the amendment intact due to language of sec. 330016(1)(K) of that Act.

⁴Sec. 320101(b)(2) of Public Law 103-322 (108 Stat. 2108) inserted “, or inflicts bodily injury”.

⁵Sec. 320101(b)(3) of Public Law 103-322 (108 Stat. 2108) struck out “not more than \$10,000” and inserted in lieu thereof “under this title”.

(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined under this title⁶ or imprisoned not more than six months, or both.

(c) For the purpose of this section “foreign government”, “foreign official”, “internationally protected person”, “international organization”, “national of the United States”,⁷ and “official guest” shall have the same meanings as those provided in section 1116(b) of this title.

(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.⁸ As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.⁹

(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.

* * * * *

⁶Sec. 330016(1)(G) of Public Law 103–322 (108 Stat. 2147) struck out “not more than \$500” and inserted in lieu thereof “under this title”.

⁷Sec. 721(d)(1) of Public Law 104–132 (110 Stat. 1298) inserted “national of the United States,” before “and”.

⁸Sec. 721(d)(2) of Public Law 104–132 (110 Stat. 1298) struck out “If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender,” and inserted in lieu thereof “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”

⁹Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out “section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))” and inserted in lieu thereof “section 46501(2) of title 49.”

§ 878.¹⁰ Threats and extortion against foreign officials, official guests, or internationally protected persons

(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201¹¹ shall be fined under this title¹² or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined under this title¹³ or imprisoned not more than twenty years, or both.

(c) For the purpose of this section “foreign official”, “internationally protected person”, “national of the United States”,¹⁴ and “official guest” shall have the same meanings as those provided in section 1116(a) of this title.

(d) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.¹⁵ As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 46501(2) of title 49.¹⁶

* * * * *

§ 970.¹ Protection of property occupied by foreign governments

(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be fined under this title,¹⁷ or imprisoned not more than five years, or both.

¹⁰Added by sec. 8 of Public Law 94-467 (90 Stat. 1997).

¹¹Sec. 705(a)(4) of Public Law 104-132 (110 Stat. 1295) struck out “by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person” after “, or 1201”.

¹²Sec. 330016(1)(K) of Public Law 103-322 (108 Stat. 2147) struck out “not more than \$5,000” and inserted in lieu thereof “under this title”.

¹³Sec. 330016(1)(N) of Public Law 103-322 (108 Stat. 2148) struck out “not more than \$20,000” and inserted in lieu thereof “under this title”.

¹⁴Sec. 721(e)(1) of Public Law 104-132 (110 Stat. 1299) inserted “national of the United States,” before “and”.

¹⁵Sec. 721(e)(2) of Public Law 104-132 (110 Stat. 1299) struck out “If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.”, and inserted in lieu thereof “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”.

¹⁶Sec. 5(e)(2) of Public Law 103-272 (108 Stat. 1373) struck out “section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38)).” and inserted in lieu thereof “section 46501(2) of title 49.”.

¹⁷Sec. 330016(1)(L) of Public Law 103-322 (108 Stat. 2147) struck out “not more than \$10,000” and inserted in lieu thereof “under this title”.

(b)¹⁸ Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers;

shall be fined under this title¹⁹ or imprisoned not more than six months, or both.

(c)¹⁸ For the purpose of this section “foreign government”, “foreign official”, “international organization”, and “official guest” shall have the same meanings as those provided in section 116(b) of this title.

* * * * *

§ 1116.1,²⁰ Murder or manslaughter of foreign officials, official guests, or internationally protected persons

(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title.²¹

¹⁸ Sec. 7 of Public Law 94-467 added a new subsec. (b), amended and restated the old subsec. (b), and redesignated it as subsec. (c).

¹⁹ Sec. 601(a)(2) of Public Law 104-294 (110 Stat. 3498) struck out “fined not more than \$500” and inserted in lieu thereof “fined under this title”.

²⁰ Sec. 1116 was amended and restated by sec. 2 of Public Law 94-467.

²¹ Sec. 6003(a)(5) of Public Law 103-322 (108 Stat. 1969) struck out “any such person who if found guilty of murder in the first degree shall be sentenced to imprisonment for life, and” from this point. Sec. 330006 of the same Act (108 Stat. 2142) struck out “and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years”. The subsec. formerly read as follows:

“(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who if found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years”.

Sec. 601(g)(2) of Public Law 104-294 (110 Stat. 3500) subsequently struck out “, except that” after “of this title”.

(b) For the purposes of this section:

(1) "Family" includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official of internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

(2) "Foreign government" means the government of a foreign country, irrespective of recognition by the United States.

(3) "Foreign official" means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

(4) "Internationally protected person" means—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

(5) "International organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.²²

(6) "Official guest" means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

(7)²³ "National of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

²²The words to this point beginning with "or a public organization created pursuant to * * *" were added by sec. 3 of Public Law 97-351 (96 Stat. 1666).

²³Sec. 721(c)(1) of Public Law 104-132 (110 Stat. 1298) added para. (7). Sec. 101(a)(22) of the Immigration and Nationality Act defines the term as "(A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States."

(c) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.²⁴ As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.²⁵

(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

§ 1117.¹ Conspiracy to murder

If two or more persons conspire to violate section 1111, 1114, 1116, or 1119²⁶ of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

* * * * *

§ 1201.¹ Kidnapping²⁷

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—²⁸

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began;²⁹

(2) any such act against the persons is done within the special maritime and territorial jurisdiction of the United States;

²⁴ Sec. 721(b)(2) of Public Law 104–132 (110 Stat. 1298) struck out “If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.” and inserted in lieu thereof “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”.

²⁵ Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out “section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))” and inserted in lieu thereof “section 46501(2) of title 49”.

²⁶ Sec. 60009(b)(1) of Public Law 103–322 (108 Stat. 1972) added reference to sec. 1119, which relates to foreign murder of U.S. nationals by U.S. nationals.

²⁷ Sec. 330021 of Public Law 103–322 (108 Stat. 2150) changed the spelling of “kidnaping” and “kidnaped” throughout 18 U.S.C.

²⁸ Sec. 36 of Public Law 99–646 (100 Stat. 3599) struck out “when:” and inserted in lieu thereof “when—”.

²⁹ Sec. 702(a) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105–314; 112 Stat. 2987) inserted “, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began”.

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;³⁰

(4)³¹ the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5)³² the person is among those officers and employees described³³ in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties;

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.³⁴

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped,²⁷ abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.³⁵

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d)³⁶ Whoever attempts to violate subsection (a)³⁷ shall be punished by imprisonment for not more than twenty years.

(e)³⁶ If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.³⁸ As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provi-

³⁰Sec. 5(e)(8) of Public Law 103-272 (108 Stat. 1374) struck out "section 101(38) of the Federal Aviation Act of 1958; or" and inserted in lieu thereof "section 46501 of title 49;".

³¹Paragraph (4) was amended and restated by sec. 4(a) of Public Law 94-467.

³²Sec. 1007 of Public Law 98-473 (98 Stat. 2139) added para. (5). Sec. 36 of Public Law 99-646 (100 Stat. 3599) made technical corrections to the paragraph.

³³Sec. 702(b) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105-314; 112 Stat. 2987) struck out "designated" and inserted in lieu thereof "described".

³⁴Sec. 600003(a)(6) of Public Law 103-322 (108 Stat. 1969) inserted "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

³⁵Sec. 702(c) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105-314; 112 Stat. 2987) added this sentence.

³⁶Subsecs. (d), (e), and (f) were added by sec. 4(b) of Public Law 94-467.

³⁷Sec. 320903(b) of Public Law 103-322 (108 Stat. 2124) struck out "Whoever attempts to violate subsection (a)(4) or (a)(5)", and inserted in lieu thereof "Whoever attempts to violate subsection (a)".

³⁸Sec. 721(f)(1) of Public Law 104-132 (110 Stat. 1299) struck out "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender." and inserted in lieu thereof "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

sions of section 5 and 7 of this title and section 46501(2) of title 49.³⁹ For purposes of this subsection, the term “national of the United States” has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).⁴⁰

(f)³⁶ In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.”

(g) * * *

(h) * * *

³⁹Sec. 5(e)(2) of Public Law 103-272 (108 Stat. 1373) struck out “section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).” and inserted in lieu thereof “section 46501(2) of title 49.”

⁴⁰Sec. 721(f)(2) of Public Law 104-132 (110 Stat. 1299) added the last sentence. See footnote 23 for definition.

h. U.S. Secret Service

(1) Protection of Foreign Diplomatic Missions by the U.S. Secret Service

3 U.S.C. 202 (added by Act of June 25, 1948, 62 Stat. 680), and 208 (added by Public Law 94-196 [H.R. 11184], 89 Stat. 1109, approved December 31, 1975); amended by Public Law 97-418 [H.R. 6254], 96 Stat. 2089, approved January 4, 1983; Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-399 [H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 102-138 [H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992

§ 202. United States Secret Service Uniformed Division; establishment, control, and supervision; privileges, powers, and duties

There is hereby created and established a permanent police force, to be known as the “United States Secret Service Uniformed Division”. Subject to the supervision of the Secretary of the Treasury, the United States Secret Service Uniformed Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: * * *

(5) foreign diplomatic missions located in the metropolitan area of the District of Columbia; * * *

(8)¹ foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C)² when the extraordinary protective need arises at or in association with a visit to (i) a permanent mission to, or an observer mission invited to participate in the work of, an international organization of which the United States is a member; or (ii) an international organization of which the United States is a member, except that such protection may also be provided for motorcades and at other places associated with any such visit and may be extended at places of temporary domicile in connection with any such visit;

¹ Sec. 135(b)(5) of Public Law 102-138 provided the following:

“Protective services provided by a State or local government at any time during the period beginning on January 1, 1989, and ending on September 30, 1991, which were performed in connection with visits described in section 202(8) of title 3, United States Code, as amended by this subsection, shall be deemed to be reimbursement obligations entered into pursuant to section 208(a) of that title as if the amendment made by paragraph (1) of this subsection (amending this section) was in effect during that period and the services had been requested by the Secretary of State.”

² Sec. 135(b)(1) of Public Law 102-138 amended and restated subclause (C).

(9)³ foreign consular and diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct; and

(10)⁴ visits of foreign government officials to metropolitan areas (other than the District of Columbia) where there are located 20 or more consular or diplomatic missions staffed by accredited personnel, including protection for motorcades and at other places associated with such visits when such officials are in the United States to conduct official business with the United States Government.⁵ The members of such force shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

* * * * *

§ 208. Reimbursement of State and local governments

(a) In carrying out the functions pursuant to sections 202(8) and 202(10),⁶ the Secretary of Treasury may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments, and is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. The Secretary of Treasury may carry out the functions pursuant to sections 202(8) and 202(10)⁶ by contract.⁷ The authority of this subsection may be transferred by the President to the Secretary of State. In carrying out any duty under sections 202(8) and 202(10),⁶ the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.⁸

(b) There is authorized to be appropriated, in addition to such sums as have been heretofore appropriated under this section—

(1) \$10,000,000⁹ for each fiscal year beginning after September 30, 1991,¹⁰ for the payment of reimbursement obligations entered into under subsection (a) without regard to the fiscal year such obligations were entered into, including obligations entered into before such date;¹¹ and

(2) \$8,000,000¹² for the payment of reimbursement obligations entered into under subsection (a) before October 1,

³Sec. 135(b)(2) of Public Law 102-138 amended and restated clause (9).

⁴Sec. 135(b)(3) of Public Law 102-138 added clause (1).

⁵Sec. 3(a) of Public Law 102-499 (106 Stat. 3264) substituted “when such officials are in the United States to conduct official business with the United States Government” in lieu of “, pursuant to invitations of the United States Government”.

⁶Sec. 135(c) of Public Law 102-138 (105 Stat. 667) struck out “section 202(7)” and inserted in lieu thereof “sections 202(8) and 202(1)” throughout subsec. (a).

⁷Sec. 126(c) of Public Law 99-93 (99 Stat. 418) added this sentence.

⁸Sec. 410 of Public Law 99-399 (100 Stat. 866) added the last sentence in subsec. (a).

⁹Sec. 135(a)(1)(A) of Public Law 102-138 (105 Stat. 666) struck out “\$7,000,000” and inserted in lieu thereof “\$10,000,000”. Previously, sec. 1(b) of Public Law 97-418 (96 Stat. 2089) amended and restated subsec. (b), which had originally authorized appropriations of not more than \$3,500,000 for any fiscal year.

¹⁰Sec. 135(a)(1)(B) of Public Law 102-138 (105 Stat. 666) struck out “1982” and inserted in lieu thereof “1991”.

¹¹Sec. 135(a)(1)(C) of Public Law 102-138 (105 Stat. 666) struck out “after such date” and inserted in lieu thereof “without regard to the fiscal year such obligations were entered into, including obligations entered into before such date”.

¹²Sec. 135(a)(3)(A) of Public Law 102-138 (105 Stat. 666) struck out “\$17,700,000” and inserted in lieu thereof “\$8,000,000”.

1991,¹³ except that not more than \$4,000,000 of this amount shall be obligated or expended during fiscal year 1992.¹⁴ Amounts appropriated under this subsection shall remain available until expended.

¹³ Sec. 135(a)(3)(B) of Public Law 102-138 (105 Stat. 666) struck out "1982" and inserted in lieu thereof "1991".

¹⁴ Sec. 135(a)(3)(C) of Public Law 102-138 (105 Stat. 666) inserted at the end of the sentence "except that not more than \$4,000,000 of this amount shall be obligated or expended during fiscal year 1992".

(2) Transfer of Authority to the Secretary of State To Make Reimbursements for Protection of Foreign Missions to International Organizations

Executive Order 12478, May 23, 1984, 49 F.R. 22053

By authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Act of December 31, 1975, Public Law 94-196 (89 Stat. 1109), codified as sections 202(7) and 208(a) of Title 3, United States Code, as amended, it is hereby ordered as follows:

Section 1. There is transferred to the Secretary of State authority to determine the need for and to approve terms and conditions of the provision of reimbursable extraordinary protective activities for foreign diplomatic missions pursuant to section 202(7), and the authority to make reimbursements to State and local governments for services, personnel, equipment, and facilities pursuant to section 208(a) of Title 3, United States Code;

Sec. 2. There are transferred to the Secretary of State such unexpended moneys as may have been appropriated to the Department of the Treasury for the purpose of permitting reimbursements to be made under the provisions of section 208(a) of Title 3, United States Code;

Sec. 3. The authority transferred pursuant to this Order shall be exercised in coordination with protective security programs administered by the Secretary of State under the Foreign Missions Act of 1982; authority available under that Act may also be applied to any foreign mission to which section 202(7) applies; and

Sec. 4. This Order shall be effective on October 1, 1984.

i. Foreign Sovereign Immunities

Partial text of 28 U.S.C. as added by Public Law 94-583 [H.R. 11315], 90 Stat. 2891, approved October 21, 1976; amended by Public Law 100-640 [Foreign Sovereign Immunities Act, Amendments; H.R. 1149], 102 Stat. 3333, approved November 9, 1988; Public Law 100-669 [Implementation of the Inter-American Convention on International Commercial Arbitration Act; S. 2204], 102 Stat. 3969, approved November 16, 1988; Public Law 100-702 [Judicial Improvements and Access to Justice Act; H.R. 4807], 102 Stat. 4642, approved November 19, 1988; Public Law 104-114 [Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; H.R. 927], 110 Stat. 785, approved March 12, 1996; Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 105-11 [H.R. 1225], 111 Stat. 22, approved April 25, 1997; Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000

§ 1330. Actions against foreign states

(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personae with respect to which the foreign state is not entitled to immunity either under sections 1605-1607 of this title or under any applicable international agreement.

(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605-1607 of this title.

* * * * *

Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

Sec.

1602. Findings and declaration of purpose.

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§ 1602. Findings and declaration of purpose

The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would

protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

§ 1603. Definitions

For purposes of this chapter—

(a) A “foreign state”, except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An “agency or instrumentality of a foreign state” means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

(c) The “United States” includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A “commercial activity” means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A “commercial activity carried on in the United States by a foreign state” means commercial activity carried on by such state and having substantial contact with the United States.

§ 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

§ 1605.¹ General exceptions to the jurisdictional immunity of a foreign state

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

¹Sec. 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104-208; 110 Stat. 3009) provided the following:

(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

(3) in which rights in property taken in violation of international law are in issue and the property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue;²

(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(6)² in which the action is brought, either to enforce an agreement made by the foreign state³ with or for the benefit of a private party to submit to arbitration all or any difference which have arisen or which may arise between the parties with

“CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

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

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

²Sec. 2 of Public Law 100-669 (102 Stat. 3969) struck out “or” at the end of paragraph (4); ended par. (5)(B) with “; or” and inserted a new par. (6).

³Sec. 325(b)(8) of Public Law 101-650 (104 Stat. 5121) struck out “State” and inserted in lieu thereof “state”.

respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable; or⁴

(7)⁴ not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

(B) even if the foreign state is or was so designated, if—

(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

(ii) neither the claimant nor the victim was⁵ a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.

(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided, That*—

(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the

⁴Sec. 221(a) of Public Law 104-132 (110 Stat. 1241) struck out “; or” at the end of para. (5), struck out a period at the end of para. (6) and inserted instead “; or”, and added a new para. (7).

⁵Public Law 105-11 (111 Stat. 22) struck out “the claimant or victim was not” and inserted in lieu thereof “neither the claimant nor the victim was”.

suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and⁶

(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection⁷ or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

(c)⁸ Whenever notices is delivered under subsection (b)(1), the suit to enforce a maritime lien shall be thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

(d)⁸ A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

(e)⁹ For purposes of paragraph (7) of subsection (a)—

⁶Sec. 1(1) of Public Law 100-640 (102 Stat. 3333) inserted text to this point from the semicolon, and struck out the following: "but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and".

⁷Sec. 1(2) of Public Law 100-640 (102 Stat. 3333) struck out "subsection (b)(1) of this section" at this point and inserted in lieu thereof reference to "paragraph (1)".

⁸Sec. 1(3) of Public Law 100-640 struck out all that followed par. (2) in this section and inserted a new subsec. (c) and (d). The struck out text read as follows:

"Whenever notice is delivered under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided*, That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section."

⁹Sec. 221(a)(2) of Public Law 104-132 (110 Stat. 1241) added subsecs. (e) through (g).

(1) the terms “torture” and “extrajudicial killing” have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

(2) the term “hostage taking” has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

(3) the term “aircraft sabotage” has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

(f)⁹ No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

(g)⁹ LIMITATION ON DISCOVERY.—

(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

(i) create a serious threat of death or serious bodily injury to any person;

(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

(3) EVALUATION OF EVIDENCE.—The court’s evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

(4) **BAR ON MOTIONS TO DISMISS.**—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

(5) **CONSTRUCTION.**—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.

§ 1606. Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages;¹⁰ if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

§ 1607. Counterclaims

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

§ 1608. Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraph (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a

¹⁰Sec. 117(b) of the Treasury Department Appropriations Act, 1999 (sec. 101(h) of Public Law 105-277; 112 Stat. 2681-491) inserted “, except any action under section 1605(a)(7) or 1610(f)” after “punitive damages”. Sec. 2002(f)(2) of Public Law 106-386 (114 Stat. 1543), however, subsequently repealed sec. 117(b) of Public Law 105-277.

signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a “notice of suit” shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of Safety regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service or process in the United States; or in accordance with an applicable international convention or service on judicial document; or

(3) if service cannot be made under paragraph (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made—

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section

§ 1609. Immunity from attachment and execution of property of a foreign state

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

§ 1610. Exceptions to the immunity from attachment or execution

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property—

(A) which is acquired by succession or gift, or

(B) which is immovable and situated in the United States: *Provided*, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment; or¹¹

(6)¹¹ the judgment is based on an order confirming an arbitral award rendered against the foreign state,¹² provided that

¹¹Sec. 3 of Public Law 100-669 (102 Stat. 3969) ended paragraph (5) with “; or” and added a new paragraph (6).

¹²Sec. 325(b)(9)(A) of Public Law 101-650 (104 Stat. 5121) struck out “State” and inserted in lieu thereof “state”.

attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or¹³

(7)¹³ the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.

(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the agency or instrumentality has waived its immunity from attachment in aid execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), (5), or (7)¹⁴ or 1605(b) of this chapter, regardless of whether the property is or was involved in the act¹⁵ upon which the claim is based.

(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section if—

(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

(e)¹⁶ The vessels of a foreign state¹⁷ shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

¹³Sec. 221(b)(1) of Public Law 104-132 (110 Stat. 1242) struck out a period at the end of para. (6), inserted instead “, or”, and added a new para. (7).

¹⁴Sec. 221(b)(2)(A) of Public Law 104-132 (110 Stat. 1243) struck out “or (5)” and inserted in lieu thereof “(5), or (7)”.

¹⁵Sec. 221(b)(2)(B) of Public Law 104-132 (110 Stat. 1243) struck out “used for the activity” and inserted in lieu thereof “involved in the act”.

¹⁶Sec. 2 of Public Law 100-640 (102 Stat. 3333) added subsec. (e).

¹⁷Sec. 325(b)(9)(B) of Public Law 101-650 (104 Stat. 5121) struck out “State” and inserted in lieu thereof “state”.

(f)¹⁸ (1)(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7).

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7), the Secretary of the Treasury and the Secretary of State should make every effort to¹⁹ fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

(B) In providing such assistance, the Secretaries—

(i) may provide such information to the court under seal; and

(ii) should make every effort to¹⁹ provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.

(3)²⁰ WAIVER.—The President may waive any provision of paragraph (1) in the interest of national security.

§ 1611. Certain types of property immune from execution

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from the execution, if—

¹⁸Sec. 117(a) of the Treasury Department Appropriations Act, 1999 (sec. 101(h) of Public Law 105–277; 112 Stat. 2681–491) added subsec. (f). Sec. 117(d) of that Act (112 Stat. 2681–492) provided that “The President may waive the requirements of this section in the interest of national security.”. Sec. 117(d) was subsequently repealed by sec. 2002(f)(2) of Public Law 106–386 (114 Stat. 1543), after inserting similar language in this section as sec. 1610(f)(3).

¹⁹Sec. 2002(f)(1)(A) of Public Law 106–386 (114 Stat. 1543) struck out “shall” and inserted in lieu thereof “should make every effort to”.

²⁰Sec. 2002(f)(1)(B) of Public Law 106–386 (114 Stat. 1543) added para. (3).

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and

(A) is of a military character, or

(B) is under the control of a military authority or defense agency.

(c)²¹ Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.

²¹Sec. 302(e) of Public Law 104-114 (110 Stat. 818) added subsec. (c).

j. Diplomatic Relations Act

Public Law 95-393 [H.R. 7819], 92 Stat. 808, approved September 30, 1978; as amended by Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 290, approved August 24, 1982; and by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1042, approved November 22, 1983

AN ACT To complement the Vienna Convention on Diplomatic Relations.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Diplomatic Relations Act”.

DEFINITIONS

SEC. 2.¹ As used in this Act—

(1) the term “members of a mission” means—

(A)² the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,

(B) members of the administrative and technical staff of a mission, and

(C) members of the service staff of a mission,
as such terms are defined in Article 1 of the Vienna Convention;

(2) the term “family” means—

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States.

within the meaning of Article 37 of the Vienna Convention;

(3) the term “mission” includes missions within the meaning of the Vienna convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

¹22 U.S.C. 254a.

²Sec. 203(b)(1) of Public Law 97-241 (96 Stat. 290) amended and restated subpar. (A). It formerly read as follows: “(A) the head of a mission and members of the diplomatic staff of a mission.”

(4) the term “Vienna Convention” means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

ESTABLISHMENT OF THE VIENNA CONVENTION AS THE UNITED STATES
LAW ON DIPLOMATIC PRIVILEGES AND IMMUNITIES

SEC. 3. (a) * * *

(b)³ With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.

AUTHORITY TO EXTEND MORE FAVORABLE OR LESS FAVORABLE
TREATMENT

SEC. 4.⁴ The President may, on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for the mission,⁵ the members of the mission, their families, and the diplomatic couriers⁶ which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention.

DISMISSAL OF ACTIONS AGAINST INDIVIDUALS ENTITLED TO IMMUNITY

SEC. 5.⁷ Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

REQUIREMENT FOR LIABILITY INSURANCE

SEC. 6.⁸ (a) Each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, shall comply with any requirement imposed by the regulations promulgated by the Director of the Office of Foreign Missions in the Department of State⁹ pursuant to subsection (b).

³ 22 U.S.C. 254b. Sec. 203(b)(2) of Public Law 97-241 (96 Stat. 291) amended and restated subsec. (b). It formerly read as follows: “(b) Members of the mission of a sending state which has not ratified the Vienna Convention, their families, and the diplomatic couriers of such state, shall enjoy the privileges and immunities specified in the Vienna Convention.”

⁴ 22 U.S.C. 254c. Executive Order 12101 (43 F.R. 54195; November 17, 1978) designated the Secretary of State to perform the functions specified in sec. 4.

⁵ Reference to the mission was added by sec. 203(b)(3)(A) of Public Law 97-241 (96 Stat. 291).

⁶ The words “of any sending state”, which previously appeared at this point, were struck out by sec. 203(b)(3)(B) of Public Law 97-241 (96 Stat. 291).

⁷ 22 U.S.C. 254d.

⁸ 22 U.S.C. 254c.

⁹ Sec. 602(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1042) substituted the reference to the Director of the Office of Foreign Missions in lieu of a reference to the President. Previously, Executive Order 12101 (43 F.R. 54195; November 17, 1978) had designated the Secretary of State to perform the functions specified in sec. 6.

(b) The Director of the Office of Foreign Missions shall, by regulation, establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims and which are¹⁰ to be met by each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, relating to risks arising from the operation in the United States of any motor vehicle, vessel, or aircraft.

(c) The Director of the Office of Foreign Missions¹¹ shall take such steps as he may deem necessary to insure that each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, who operate motor vehicles, vessels, or aircraft in the United States comply with the requirements established pursuant to subsection (b).

SEC. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section;

“§ 1364. Direct actions against insurers of members of diplomatic missions and their families

“(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))¹² or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

“(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose.”

(b) * * *

* * * * *

EFFECTIVE DATE

SEC. 9. This Act shall take effect at the end of the ninety-day period beginning on the date of its enactment.

¹⁰The words to this point in subsec. (b) were substituted in lieu of the words “The President shall by regulation, establish liability insurance requirements” by sec. 602(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1042).

¹¹Sec. 602(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1042), substituted the reference to the Director of the Office of Foreign Missions in lieu of a reference to the President.

¹²Sec. 203(b)(4) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241; 96 Stat. 291) amended the parenthetical phrase. It previously read as follows: “(as defined in the Vienna Convention on Diplomatic Relations)”.

k. Diplomatic Reciprocity

(1) Equivalency of Representation Between U.S. and Hostile Powers

Partial Text of Public Law 98-618 [Intelligence Authorization Act for Fiscal Year 1985, H.R. 5399], 98 Stat. 3298, approved November 8, 1984

AN ACT To authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1985”.

* * * * *

TITLE VI—COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

POLICY TOWARD CERTAIN AGENTS OF FOREIGN GOVERNMENTS

SEC. 601.¹ (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs² and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States

¹22 U.S.C. 254c-1.

²Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

to such country, and action which may have been taken with respect thereto.

(c)³ * * *

(d)³ * * *

* * * * *

³Subsec. (c) amended sec. 203 of the State Department Basic Authorities Act of 1956; effective for particular appointments made after the enactment of the subsection [November 8, 1984] pursuant to subsec. (d).

(2) Soviet Employees on U.S. Diplomatic Premises

Partial Text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

* * * * *

SEC. 136.¹ SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b)² REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to the Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

¹22 U.S.C. 3943 note.

²The President issued Determination No. 92-4 (October 24, 1991; 56 F.R. 56567), wherein he stated:

“* * * I hereby determine that implementation of section 136(a) of the [Foreign Relations Authorization] Act [, Fiscal Years 1986 and 1987], poses undue practical and administrative difficulties. Consistent with this determination, you [Secretary of State] are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act, to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.”.

12. Relating to International Agreements on Children

a. Intercountry Adoption Act of 2001

Public Law 106-279 [H.R. 2909], 114 Stat. 825, approved October 6, 2000

AN ACT To provide for implementation by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.

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

SECTION 1.¹ SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intercountry Adoption Act of 2000”.

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

SEC. 2.² FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress recognizes—

(1) the international character of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at The Hague on May 29, 1993); and

(2) the need for uniform interpretation and implementation of the Convention in the United States and abroad, and therefore finds that enactment of a Federal law governing adoptions and prospective adoptions subject to the Convention involving United States residents is essential.

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

(1) to provide for implementation by the United States of the Convention;

(2) to protect the rights of, and prevent abuses against, children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention, and to ensure that such adoptions are in the children’s best interests; and

(3) to improve the ability of the Federal Government to assist United States citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States.

SEC. 3.³ DEFINITIONS.

As used in this Act:

(1) ACCREDITED AGENCY.—The term “accredited agency” means an agency accredited under title II to provide adoption services in the United States in cases subject to the Convention.

¹ 42 U.S.C. 14901 note.

² 42 U.S.C. 14901.

³ 42 U.S.C. 14902.

(2) ACCREDITING ENTITY.—The term “accrediting entity” means an entity designated under section 202(a) to accredit agencies and approve persons under title II.

(3) ADOPTION SERVICE.—The term “adoption service” means—

(A) identifying a child for adoption and arranging an adoption;

(B) securing necessary consent to termination of parental rights and to adoption;

(C) performing a background study on a child or a home study on a prospective adoptive parent, and reporting on such a study;

(D) making determinations of the best interests of a child and the appropriateness of adoptive placement for the child;

(E) post-placement monitoring of a case until final adoption; and

(F) where made necessary by disruption before final adoption, assuming custody and providing child care or any other social service pending an alternative placement.

The term “providing”, with respect to an adoption service, includes facilitating the provision of the service.

(4) AGENCY.—The term “agency” means any person other than an individual.

(5) APPROVED PERSON.—The term “approved person” means a person approved under title II to provide adoption services in the United States in cases subject to the Convention.

(6) ATTORNEY GENERAL.—Except as used in section 404, the term “Attorney General” means the Attorney General, acting through the Commissioner of Immigration and Naturalization.

(7) CENTRAL AUTHORITY.—The term “central authority” means the entity designated as such by any Convention country under Article 6(1) of the Convention.

(8) CENTRAL AUTHORITY FUNCTION.—The term “central authority function” means any duty required to be carried out by a central authority under the Convention.

(9) CONVENTION.—The term “Convention” means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(10) CONVENTION ADOPTION.—The term “Convention adoption” means an adoption of a child resident in a foreign country party to the Convention by a United States citizen, or an adoption of a child resident in the United States by an individual residing in another Convention country.

(11) CONVENTION RECORD.—The term “Convention record” means any item, collection, or grouping of information contained in an electronic or physical document, an electronic collection of data, a photograph, an audio or video tape, or any other information storage medium of any type whatever that contains information about a specific past, current, or prospective Convention adoption (regardless of whether the adoption was made final) that has been preserved in accordance with section 401(a) by the Secretary of State or the Attorney General.

(12) CONVENTION COUNTRY.—The term “Convention country” means a country party to the Convention.

(13) OTHER CONVENTION COUNTRY.—The term “other Convention country” means a Convention country other than the United States.

(14) PERSON.—The term “person” shall have the meaning provided in section 1 of title 1, United States Code, and shall not include any agency of government or tribal government entity.

(15) PERSON WITH AN OWNERSHIP OR CONTROL INTEREST.—The term “person with an ownership or control interest” has the meaning given such term in section 1124(a)(3) of the Social Security Act (42 U.S.C. 1320a-3).

(16) SECRETARY.—The term “Secretary” means the Secretary of State.

(17) STATE.—The term “State” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

TITLE I—UNITED STATES CENTRAL AUTHORITY

SEC. 101.⁴ DESIGNATION OF CENTRAL AUTHORITY.

(a) IN GENERAL.—For purposes of the Convention and this Act—

(1) the Department of State shall serve as the central authority of the United States; and

(2) the Secretary shall serve as the head of the central authority of the United States.

(b) PERFORMANCE OF CENTRAL AUTHORITY FUNCTIONS.—

(1) Except as otherwise provided in this Act, the Secretary shall be responsible for the performance of all central authority functions for the United States under the Convention and this Act.

(2) All personnel of the Department of State performing core central authority functions in a professional capacity in the Office of Children’s Issues shall have a strong background in consular affairs, personal experience in international adoptions, or professional experience in international adoptions or child services.

(c) AUTHORITY TO ISSUE REGULATIONS.—Except as otherwise provided in this Act, the Secretary may prescribe such regulations as may be necessary to carry out central authority functions on behalf of the United States.

SEC. 102.⁵ RESPONSIBILITIES OF THE SECRETARY OF STATE.

(a) LIAISON RESPONSIBILITIES.—The Secretary shall have responsibility for—

(1) liaison with the central authorities of other Convention countries; and

(2) the coordination of activities under the Convention by persons subject to the jurisdiction of the United States.

⁴ 42 U.S.C. 14911.

⁵ 42 U.S.C. 14912.

(b) INFORMATION EXCHANGE.—The Secretary shall be responsible for—

(1) providing the central authorities of other Convention countries with information concerning—

(A) accredited agencies and approved persons, agencies and persons whose accreditation or approval has been suspended or canceled, and agencies and persons who have been temporarily or permanently debarred from accreditation or approval;

(B) Federal and State laws relevant to implementing the Convention; and

(C) any other matters necessary and appropriate for implementation of the Convention;

(2) not later than the date of the entry into force of the Convention for the United States (pursuant to Article 46(2)(a) of the Convention) and at least once during each subsequent calendar year, providing to the central authority of all other Convention countries a notice requesting the central authority of each such country to specify any requirements of such country regarding adoption, including restrictions on the eligibility of persons to adopt, with respect to which information on the prospective adoptive parent or parents in the United States would be relevant;

(3) making responses to notices under paragraph (2) available to—

(A) accredited agencies and approved persons; and

(B) other persons or entities performing home studies under section 201(b)(1);

(4) ensuring the provision of a background report (home study) on prospective adoptive parent or parents (pursuant to the requirements of section 203(b)(1)(A)(ii)), through the central authority of each child's country of origin, to the court having jurisdiction over the adoption (or, in the case of a child emigrating to the United States for the purpose of adoption, to the competent authority in the child's country of origin with responsibility for approving the child's emigration) in adequate time to be considered prior to the granting of such adoption or approval;

(5) providing Federal agencies, State courts, and accredited agencies and approved persons with an identification of Convention countries and persons authorized to perform functions under the Convention in each such country; and

(6) facilitating the transmittal of other appropriate information to, and among, central authorities, Federal and State agencies (including State courts), and accredited agencies and approved persons.

(c) ACCREDITATION AND APPROVAL RESPONSIBILITIES.—The Secretary shall carry out the functions prescribed by the Convention with respect to the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention as provided in title II. Such functions may not be delegated to any other Federal agency.

(d) ADDITIONAL RESPONSIBILITIES.—The Secretary—

(1) shall monitor individual Convention adoption cases involving United States citizens; and

(2) may facilitate interactions between such citizens and officials of other Convention countries on matters relating to the Convention in any case in which an accredited agency or approved person is unwilling or unable to provide such facilitation.

(e) **ESTABLISHMENT OF REGISTRY.**—The Secretary and the Attorney General shall jointly establish a case registry of all adoptions involving immigration of children into the United States and emigration of children from the United States, regardless of whether the adoption occurs under the Convention. Such registry shall permit tracking of pending cases and retrieval of information on both pending and closed cases.

(f) **METHODS OF PERFORMING RESPONSIBILITIES.**—The Secretary may—

(1) authorize public or private entities to perform appropriate central authority functions for which the Secretary is responsible, pursuant to regulations or under agreements published in the Federal Register; and

(2) carry out central authority functions through grants to, or contracts with, any individual or public or private entity, except as may be otherwise specifically provided in this Act.

SEC. 103.⁶ RESPONSIBILITIES OF THE ATTORNEY GENERAL.

In addition to such other responsibilities as are specifically conferred upon the Attorney General by this Act, the central authority functions specified in Article 14 of the Convention (relating to the filing of applications by prospective adoptive parents to the central authority of their country of residence) shall be performed by the Attorney General.

SEC. 104.⁷ ANNUAL REPORT ON INTERCOUNTRY ADOPTIONS.

(a) **REPORTS REQUIRED.**—Beginning 1 year after the date of the entry into force of the Convention for the United States and each year thereafter, the Secretary, in consultation with the Attorney General and other appropriate agencies, shall submit a report describing the activities of the central authority of the United States under this Act during the preceding year to the Committee on International Relations, the Committee on Ways and Means, and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Judiciary of the Senate.

(b) **REPORT ELEMENTS.**—Each report under subsection (a) shall set forth with respect to the year concerned, the following:

(1) The number of intercountry adoptions involving immigration to the United States, regardless of whether the adoption occurred under the Convention, including the country from which each child emigrated, the State to which each child immigrated, and the country in which the adoption was finalized.

(2) The number of intercountry adoptions involving emigration from the United States, regardless of whether the adop-

⁶ 42 U.S.C. 14913.

⁷ 42 U.S.C. 14914.

tion occurred under the Convention, including the country to which each child immigrated and the State from which each child emigrated.

(3) The number of Convention placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 422(b)(14) of the Social Security Act, as amended by section 205 of this Act.

(4) The average time required for completion of a Convention adoption, set forth by country from which the child emigrated.

(5) The current list of agencies accredited and persons approved under this Act to provide adoption services.

(6) The names of the agencies and persons temporarily or permanently debarred under this Act, and the reasons for the debarment.

(7) The range of adoption fees charged in connection with Convention adoptions involving immigration to the United States and the median of such fees set forth by the country of origin.

(8) The range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention.

TITLE II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

SEC. 201.⁸ ACCREDITATION OR APPROVAL REQUIRED IN ORDER TO PROVIDE ADOPTION SERVICES IN CASES SUBJECT TO THE CONVENTION.

(a) **IN GENERAL.**—Except as otherwise provided in this title, no person may offer or provide adoption services in connection with a Convention adoption in the United States unless that person—

(1) is accredited or approved in accordance with this title; or

(2) is providing such services through or under the supervision and responsibility of an accredited agency or approved person.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to the following:

(1) **BACKGROUND STUDIES AND HOME STUDIES.**—The performance of a background study on a child or a home study on a prospective adoptive parent, or any report on any such study by a social work professional or organization who is not providing any other adoption service in the case, if the background or home study is approved by an accredited agency.

(2) **CHILD WELFARE SERVICES.**—The provision of a child welfare service by a person who is not providing any other adoption service in the case.

(3) **LEGAL SERVICES.**—The provision of legal services by a person who is not providing any adoption service in the case.

⁸ 42 U.S.C. 14921.

(4) PROSPECTIVE ADOPTIVE PARENTS ACTING ON OWN BEHALF.—The conduct of a prospective adoptive parent on his or her own behalf in the case, to the extent not prohibited by the law of the State in which the prospective adoptive parent resides.

SEC. 202.⁹ PROCESS FOR ACCREDITATION AND APPROVAL; ROLE OF ACCREDITING ENTITIES.

(a) DESIGNATION OF ACCREDITING ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into agreements with one or more qualified entities under which such entities will perform the duties described in subsection (b) in accordance with the Convention, this title, and the regulations prescribed under section 203, and upon entering into each such agreement shall designate the qualified entity as an accrediting entity.

(2) QUALIFIED ENTITIES.—In paragraph (1), the term “qualified entity” means—

(A) a nonprofit private entity that has expertise in developing and administering standards for entities providing child welfare services and that meets such other criteria as the Secretary may by regulation establish; or

(B) a public entity (other than a Federal entity), including an agency or instrumentality of State government having responsibility for licensing adoption agencies, that—

(i) has expertise in developing and administering standards for entities providing child welfare services;

(ii) accredits only agencies located in the State in which the public entity is located; and

(iii) meets such other criteria as the Secretary may by regulation establish.

(b) DUTIES OF ACCREDITING ENTITIES.—The duties described in this subsection are the following:

(1) ACCREDITATION AND APPROVAL.—Accreditation of agencies, and approval of persons, to provide adoption services in the United States in cases subject to the Convention.

(2) OVERSIGHT.—Ongoing monitoring of the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against such agencies and persons in accordance with procedures established by the accrediting entity and approved by the Secretary.

(3) ENFORCEMENT.—Taking of adverse actions (including requiring corrective action, imposing sanctions, and refusing to renew, suspending, or canceling accreditation or approval) for noncompliance with applicable requirements, and notifying the agency or person against whom adverse actions are taken of the deficiencies necessitating the adverse action.

(4) DATA, RECORDS, AND REPORTS.—Collection of data, maintenance of records, and reporting to the Secretary, the United States central authority, State courts, and other entities (including on persons and agencies granted or denied approval or accreditation), to the extent and in the manner that the Secretary requires.

⁹ 42 U.S.C. 14922.

(c) REMEDIES FOR ADVERSE ACTION BY ACCREDITING ENTITY.—

(1) CORRECTION OF DEFICIENCY.—An agency or person who is the subject of an adverse action by an accrediting entity may re-apply for accreditation or approval (or petition for termination of the adverse action) on demonstrating to the satisfaction of the accrediting entity that the deficiencies necessitating the adverse action have been corrected.

(2) NO OTHER ADMINISTRATIVE REVIEW.—An adverse action by an accrediting entity shall not be subject to administrative review.

(3) JUDICIAL REVIEW.—An agency or person who is the subject of an adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action. The court shall review the adverse action in accordance with section 706 of title 5, United States Code, and for purposes of such review the accrediting entity shall be considered an agency within the meaning of section 701 of such title.

(d) FEES.—The amount of fees assessed by accrediting entities for the costs of accreditation shall be subject to approval by the Secretary. Such fees may not exceed the costs of accreditation. In reviewing the level of such fees, the Secretary shall consider the relative size of, the geographic location of, and the number of Convention adoption cases managed by the agencies or persons subject to accreditation or approval by the accrediting entity.

SEC. 203.¹⁰ STANDARDS AND PROCEDURES FOR PROVIDING ACCREDITATION OR APPROVAL.

(a) IN GENERAL.—

(1) PROMULGATION OF REGULATIONS.—The Secretary, shall, by regulation, prescribe the standards and procedures to be used by accrediting entities for the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention.

(2) CONSIDERATION OF VIEWS.—In developing such regulations, the Secretary shall consider any standards or procedures developed or proposed by, and the views of, individuals and entities with interest and expertise in international adoptions and family social services, including public and private entities with experience in licensing and accrediting adoption agencies.

(3) APPLICABILITY OF NOTICE AND COMMENT RULES.—Subsections (b), (c), and (d) of section 553 of title 5, United States Code, shall apply in the development and issuance of regulations under this section.

(b) MINIMUM REQUIREMENTS.—

(1) ACCREDITATION.—The standards prescribed under subsection (a) shall include the requirement that accreditation of an agency may not be provided or continued under this title unless the agency meets the following requirements:

(A) SPECIFIC REQUIREMENTS.—

(i) The agency provides prospective adoptive parents of a child in a prospective Convention adoption a copy

¹⁰42 U.S.C. 14923.

of the medical records of the child (which, to the fullest extent practicable, shall include an English-language translation of such records) on a date which is not later than the earlier of the date that is 2 weeks before: (I) the adoption; or (II) the date on which the prospective parents travel to a foreign country to complete all procedures in such country relating to the adoption.

(ii) The agency ensures that a thorough background report (home study) on the prospective adoptive parent or parents has been completed in accordance with the Convention and with applicable Federal and State requirements and transmitted to the Attorney General with respect to each Convention adoption. Each such report shall include a criminal background check and a full and complete statement of all facts relevant to the eligibility of the prospective adopting parent or parents to adopt a child under any requirements specified by the central authority of the child's country of origin under section 102(b)(3), including, in the case of a child emigrating to the United States for the purpose of adoption, the requirements of the child's country of origin applicable to adoptions taking place in such country. For purposes of this clause, the term "background report (home study)" includes any supplemental statement submitted by the agency to the Attorney General for the purpose of providing information relevant to any requirements specified by the child's country of origin.

(iii) The agency provides prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(iv) The agency employs personnel providing intercountry adoption services on a fee for service basis rather than on a contingent fee basis.

(v) The agency discloses fully its policies and practices, the disruption rates of its placements for intercountry adoption, and all fees charged by such agency for intercountry adoption.

(B) CAPACITY TO PROVIDE ADOPTION SERVICES.—The agency has, directly or through arrangements with other persons, a sufficient number of appropriately trained and qualified personnel, sufficient financial resources, appropriate organizational structure, and appropriate procedures to enable the agency to provide, in accordance with this Act, all adoption services in cases subject to the Convention.

(C) USE OF SOCIAL SERVICE PROFESSIONALS.—The agency has established procedures designed to ensure that social service functions requiring the application of clinical skills

and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) RECORDS, REPORTS, AND INFORMATION MATTERS.—The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this Act, and any other applicable law.

(E) LIABILITY INSURANCE.—The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) COMPLIANCE WITH APPLICABLE RULES.—The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this Act, and any other applicable law.

(G) NONPROFIT ORGANIZATION WITH STATE LICENSE TO PROVIDE ADOPTION SERVICES.—The agency is a private nonprofit organization licensed to provide adoption services in at least one State.

(2) APPROVAL.—The standards prescribed under subsection (a) shall include the requirement that a person shall not be approved under this title unless the person is a private for-profit entity that meets the requirements of subparagraphs (A) through (F) of paragraph (1) of this subsection.

(3) RENEWAL OF ACCREDITATION OR APPROVAL.—The standards prescribed under subsection (a) shall provide that the accreditation of an agency or approval of a person under this title shall be for a period of not less than 3 years and not more than 5 years, and may be renewed on a showing that the agency or person meets the requirements applicable to original accreditation or approval under this title.

(c) TEMPORARY REGISTRATION OF COMMUNITY BASED AGENCIES.—

(1) ONE-YEAR REGISTRATION PERIOD FOR MEDIUM COMMUNITY BASED AGENCIES.—For a 1-year period after the entry into force of the Convention and notwithstanding subsection (b), the Secretary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 100 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(2) TWO-YEAR REGISTRATION PERIOD FOR SMALL COMMUNITY-BASED AGENCIES.—For a 2-year period after the entry into force of the Convention and notwithstanding subsection (b), the Sec-

retary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 50 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(3) **CRITERIA FOR REGISTRATION.**—Agencies registered under this subsection shall meet the following criteria:

(A) The agency is licensed in the State in which it is located and is a nonprofit agency.

(B) The agency has been providing adoption services in connection with intercountry adoptions for at least 3 years.

(C) The agency has demonstrated that it will be able to provide the United States Government with all information related to the elements described in section 104(b) and provides such information.

(D) The agency has initiated the process of becoming accredited under the provisions of this Act and is actively taking steps to become an accredited agency.

(E) The agency has not been found to be involved in any improper conduct relating to intercountry adoptions.

SEC. 204.¹¹ SECRETARIAL OVERSIGHT OF ACCREDITATION AND APPROVAL.

(a) **OVERSIGHT OF ACCREDITING ENTITIES.**—The Secretary shall—

(1) monitor the performance by each accrediting entity of its duties under section 202 and its compliance with the requirements of the Convention, this Act, other applicable laws, and implementing regulations under this Act; and

(2) suspend or cancel the designation of an accrediting entity found to be substantially out of compliance with the Convention, this Act, other applicable laws, or implementing regulations under this Act.

(b) **SUSPENSION OR CANCELLATION OF ACCREDITATION OR APPROVAL.**—

(1) **SECRETARY'S AUTHORITY.**—The Secretary shall suspend or cancel the accreditation or approval granted by an accrediting entity to an agency or person pursuant to section 202 when the Secretary finds that—

(A) the agency or person is substantially out of compliance with applicable requirements; and

(B) the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(2) **CORRECTION OF DEFICIENCY.**—At any time when the Secretary is satisfied that the deficiencies on the basis of which an adverse action is taken under paragraph (1) have been corrected, the Secretary shall—

(A) notify the accrediting entity that the deficiencies have been corrected; and

(B)(i) in the case of a suspension, terminate the suspension; or

¹¹ 42 U.S.C. 14924.

- (ii) in the case of a cancellation, notify the agency or person that the agency or person may re-apply to the accrediting entity for accreditation or approval.
- (c) DEBARMENT.—
- (1) SECRETARY'S AUTHORITY.—On the initiative of the Secretary, or on request of an accrediting entity, the Secretary may temporarily or permanently debar an agency from accreditation or a person from approval under this title, but only if—
- (A) there is substantial evidence that the agency or person is out of compliance with applicable requirements; and
- (B) there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.
- (2) PERIOD OF DEBARMENT.—The Secretary's debarment order shall state whether the debarment is temporary or permanent. If the debarment is temporary, the Secretary shall specify a date, not earlier than 3 years after the date of the order, on or after which the agency or person may apply to the Secretary for withdrawal of the debarment.
- (3) EFFECT OF DEBARMENT.—An accrediting entity may take into account the circumstances of the debarment of an agency or person that has been debarred pursuant to this subsection in considering any subsequent application of the agency or person, or of any other entity in which the agency or person has an ownership or control interest, for accreditation or approval under this title.
- (d) JUDICIAL REVIEW.—A person (other than a prospective adoptive parent), an agency, or an accrediting entity who is the subject of a final action of suspension, cancellation, or debarment by the Secretary under this title may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the person resides or the agency or accrediting entity is located to set aside the action. The court shall review the action in accordance with section 706 of title 5, United States Code.
- (e) FAILURE TO ENSURE A FULL AND COMPLETE HOME STUDY.—
- (1) IN GENERAL.—Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 203(b)(1)(A)(ii) shall constitute substantial non-compliance with applicable requirements.
- (2) REGULATIONS.—Regulations promulgated under section 203 shall provide for—
- (A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 203(b)(A)(ii); and
- (B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial noncompliance with the requirements of section 203(b)(A)(ii), unless the accrediting entity has taken appropriate corrective action and the noncompliance has not recurred.

(3) REPEATED FAILURES TO COMPLY.—Repeated serious, willful, or grossly negligent failures to comply with the requirements of section 203(b)(1)(A)(ii) by an agency or person after consultation between Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply under subsection (c)(1)(B).

(4) FAILURE TO COMPLY WITH CERTAIN REQUIREMENTS.—A failure to comply with the requirements of section 203(b)(1)(A)(ii) shall constitute a serious failure to comply under subsection (c)(1)(B) unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin.

SEC. 205. STATE PLAN REQUIREMENT.

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—* * *

**TITLE III—RECOGNITION OF CONVENTION ADOPTIONS
IN THE UNITED STATES**

SEC. 301.¹² ADOPTIONS OF CHILDREN IMMIGRATING TO THE UNITED STATES.

(a) LEGAL EFFECT OF CERTIFICATES ISSUED BY THE SECRETARY OF STATE.—

(1) ISSUANCE OF CERTIFICATES BY THE SECRETARY OF STATE.—The Secretary of State shall, with respect to each Convention adoption, issue a certificate to the adoptive citizen parent domiciled in the United States that the adoption has been granted or, in the case of a prospective adoptive citizen parent, that legal custody of the child has been granted to the citizen parent for purposes of emigration and adoption, pursuant to the Convention and this Act, if the Secretary of State—

(A) receives appropriate notification from the central authority of such child's country of origin; and

(B) has verified that the requirements of the Convention and this Act have been met with respect to the adoption.

(2) LEGAL EFFECT OF CERTIFICATES.—If appended to an original adoption decree, the certificate described in paragraph (1) shall be treated by Federal and State agencies, courts, and other public and private persons and entities as conclusive evidence of the facts certified therein and shall constitute the certification required by section 204(d)(2) of the Immigration and Nationality Act, as amended by this Act.

(b) LEGAL EFFECT OF CONVENTION ADOPTION FINALIZED IN ANOTHER CONVENTION COUNTRY.—A final adoption in another Convention country, certified by the Secretary of State pursuant to subsection (a) of this section or section 303(c), shall be recognized as a final valid adoption for purposes of all Federal, State, and local laws of the United States.

¹²42 U.S.C. 14931.

(c) **CONDITION ON FINALIZATION OF CONVENTION ADOPTION BY STATE COURT.**—In the case of a child who has entered the United States from another Convention country for the purpose of adoption, an order declaring the adoption final shall not be entered unless the Secretary of State has issued the certificate provided for in subsection (a) with respect to the adoption.

SEC. 302. IMMIGRATION AND NATIONALITY ACT AMENDMENTS RELATING TO CHILDREN ADOPTED FROM CONVENTION COUNTRIES.

(a) **DEFINITION OF CHILD.**—Section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) is amended—* * *

(b) **APPROVAL OF PETITIONS.**—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended—* * *

(c) **DEFINITION OF PARENT.**—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended * * *

SEC. 303.¹³ ADOPTIONS OF CHILDREN EMIGRATING FROM THE UNITED STATES.

(a) **DUTIES OF ACCREDITED AGENCY OR APPROVED PERSON.**—In the case of a Convention adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency or approved person providing adoption services, or the prospective adoptive parent or parents acting on their own behalf (if permitted by the laws of such other Convention country in which they reside and the laws of the State in which the child resides), shall do the following:

- (1) Ensure that, in accordance with the Convention—
 - (A) a background study on the child is completed;
 - (B) the accredited agency or approved person—
 - (i) has made reasonable efforts to actively recruit and make a diligent search for prospective adoptive parents to adopt the child in the United States; and
 - (ii) despite such efforts, has not been able to place the child for adoption in the United States in a timely manner; and
 - (C) a determination is made that placement with the prospective adoptive parent or parents is in the best interests of the child.

- (2) Furnish to the State court with jurisdiction over the case—

- (A) documentation of the matters described in paragraph (1);
- (B) a background report (home study) on the prospective adoptive parent or parents (including a criminal background check) prepared in accordance with the laws of the receiving country; and
- (C) a declaration by the central authority (or other competent authority) of such other Convention country—
 - (i) that the child will be permitted to enter and reside permanently, or on the same basis as the adopting parent, in the receiving country; and
 - (ii) that the central authority (or other competent authority) of such other Convention country consents

¹³42 U.S.C. 14932.

- to the adoption, if such consent is necessary under the laws of such country for the adoption to become final.
- (3) Furnish to the United States central authority—
- (A) official copies of State court orders certifying the final adoption or grant of custody for the purpose of adoption;
 - (B) the information and documents described in paragraph (2), to the extent required by the United States central authority; and
 - (C) any other information concerning the case required by the United States central authority to perform the functions specified in subsection (c) or otherwise to carry out the duties of the United States central authority under the Convention.
- (b) **CONDITIONS ON STATE COURT ORDERS.**—An order declaring an adoption to be final or granting custody for the purpose of adoption in a case described in subsection (a) shall not be entered unless the court—
- (1) has received and verified to the extent the court may find necessary—
 - (A) the material described in subsection (a)(2); and
 - (B) satisfactory evidence that the requirements of Articles 4 and 15 through 21 of the Convention have been met; and
 - (2) has determined that the adoptive placement is in the best interests of the child.
- (c) **DUTIES OF THE SECRETARY OF STATE.**—In a case described in subsection (a), the Secretary, on receipt and verification as necessary of the material and information described in subsection (a)(3), shall issue, as applicable, an official certification that the child has been adopted or a declaration that custody for purposes of adoption has been granted, in accordance with the Convention and this Act.
- (d) **FILING WITH REGISTRY REGARDING NONCONVENTION ADOPTIONS.**—Accredited agencies, approved persons, and other persons, including governmental authorities, providing adoption services in an intercountry adoption not subject to the Convention that involves the emigration of a child from the United States shall file information required by regulations jointly issued by the Attorney General and the Secretary of State for purposes of implementing section 102(e).

TITLE IV—ADMINISTRATION AND ENFORCEMENT

SEC. 401.¹⁴ ACCESS TO CONVENTION RECORDS.

(a) PRESERVATION OF CONVENTION RECORDS.—

- (1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General, shall issue regulations that establish procedures and requirements in accordance with the Convention and this section for the preservation of Convention records.

¹⁴42 U.S.C. 14941.

(2) **APPLICABILITY OF NOTICE AND COMMENT RULES.**—Subsections (b), (c), and (d) of section 553 of title 5, United States Code, shall apply in the development and issuance of regulations under this section.

(b) **ACCESS TO CONVENTION RECORDS.**—

(1) **PROHIBITION.**—Except as provided in paragraph (2), the Secretary or the Attorney General may disclose a Convention record, and access to such a record may be provided in whole or in part, only if such record is maintained under the authority of the Immigration and Nationality Act and disclosure of, or access to, such record is permitted or required by applicable Federal law.

(2) **EXCEPTION FOR ADMINISTRATION OF THE CONVENTION.**—A Convention record may be disclosed, and access to such a record may be provided, in whole or in part, among the Secretary, the Attorney General, central authorities, accredited agencies, and approved persons, only to the extent necessary to administer the Convention or this Act.

(3) **PENALTIES FOR UNLAWFUL DISCLOSURE.**—Unlawful disclosure of all or part of a Convention record shall be punishable in accordance with applicable Federal law.

(c) **ACCESS TO NON-CONVENTION RECORDS.**—Disclosure of, access to, and penalties for unlawful disclosure of, adoption records that are not Convention records, including records of adoption proceedings conducted in the United States, shall be governed by applicable State law.

SEC. 402.¹⁵ DOCUMENTS OF OTHER CONVENTION COUNTRIES.

Documents originating in any other Convention country and related to a Convention adoption case shall require no authentication in order to be admissible in any Federal, State, or local court in the United States, unless a specific and supported claim is made that the documents are false, have been altered, or are otherwise unreliable.

SEC. 403.¹⁶ AUTHORIZATION OF APPROPRIATIONS; COLLECTION OF FEES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to agencies of the Federal Government implementing the Convention and the provisions of this Act.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) **ASSESSMENT OF FEES.**—

(1) The Secretary may charge a fee for new or enhanced services that will be undertaken by the Department of State to meet the requirements of this Act with respect to intercountry adoptions under the Convention and comparable services with respect to other intercountry adoptions. Such fee shall be prescribed by regulation and shall not exceed the cost of such services.

¹⁵ 42 U.S.C. 14942.

¹⁶ 42 U.S.C. 14943.

(2) Fees collected under paragraph (1) shall be retained and deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing such services.

(3) Fees authorized under this section shall be available for obligation only to the extent and in the amount provided in advance in appropriations Acts.

(c) RESTRICTION.—No funds collected under the authority of this section may be made available to an accrediting entity to carry out the purposes of this Act.

SEC. 404.¹⁷ ENFORCEMENT.

(a) CIVIL PENALTIES.—Any person who—

(1) violates section 201;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision by an accrediting entity with respect to the accreditation of an agency or approval of a person under title II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child in a case subject to the Convention; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2),

shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than \$50,000 for a first violation, and not more than \$100,000 for each succeeding violation.

(b) CIVIL ENFORCEMENT.—

(1) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) FACTORS TO BE CONSIDERED IN IMPOSING PENALTIES.—In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

(c) CRIMINAL PENALTIES.—Whoever knowingly and willfully violates paragraph (1) or (2) of subsection (a) shall be subject to a fine of not more than \$250,000, imprisonment for not more than 5 years, or both.

TITLE V—GENERAL PROVISIONS

SEC. 501.¹⁸ RECOGNITION OF CONVENTION ADOPTIONS.

Subject to Article 24 of the Convention, adoptions concluded between two other Convention countries that meet the requirements of Article 23 of the Convention and that became final before the

¹⁷ 42 U.S.C. 14944.

¹⁸ 42 U.S.C. 14951.

date of entry into force of the Convention for the United States shall be recognized thereafter in the United States and given full effect. Such recognition shall include the specific effects described in Article 26 of the Convention.

SEC. 502.¹⁹ SPECIAL RULES FOR CERTAIN CASES.

(a) **AUTHORITY TO ESTABLISH ALTERNATIVE PROCEDURES FOR ADOPTION OF CHILDREN BY RELATIVES.**—To the extent consistent with the Convention, the Secretary may establish by regulation alternative procedures for the adoption of children by individuals related to them by blood, marriage, or adoption, in cases subject to the Convention.

(b) **WAIVER AUTHORITY.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this Act, to the extent consistent with the Convention, the Secretary may, on a case-by-case basis, waive applicable requirements of this Act or regulations issued under this Act, in the interests of justice or to prevent grave physical harm to the child.

(2) **NONDELEGATION.**—The authority provided by paragraph (1) may not be delegated.

SEC. 503.²⁰ RELATIONSHIP TO OTHER LAWS.

(a) **PREEMPTION OF INCONSISTENT STATE LAW.**—The Convention and this Act shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law with respect to the subject matter of the Convention or this Act, except to the extent that such provision of State law is inconsistent with the Convention or this Act, and then only to the extent of the inconsistency.

(b) **APPLICABILITY OF THE INDIAN CHILD WELFARE ACT.**—The Convention and this Act shall not be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

(c) **RELATIONSHIP TO OTHER LAWS.**—Sections 3506(c), 3507, and 3512 of title 44, United States Code, shall not apply to information collection for purposes of sections 104, 202(b)(4), and 303(d) of this Act or for use as a Convention record as defined in this Act.

SEC. 504.²¹ NO PRIVATE RIGHT OF ACTION.

The Convention and this Act shall not be construed to create a private right of action to seek administrative or judicial relief, except to the extent expressly provided in this Act.

SEC. 505.²² EFFECTIVE DATES; TRANSITION RULE.

(a) **EFFECTIVE DATES.**—

(1) **PROVISIONS EFFECTIVE UPON ENACTMENT.**—Sections 2, 3, 101 through 103, 202 through 205, 401(a), 403, 503, and 505(a) shall take effect on the date of the enactment of this Act.

(2) **PROVISIONS EFFECTIVE UPON THE ENTRY INTO FORCE OF THE CONVENTION.**—Subject to subsection (b), the provisions of

¹⁹ 42 U.S.C. 14952.

²⁰ 42 U.S.C. 14953.

²¹ 42 U.S.C. 14954.

²² 42 U.S.C. 14901 note.

this Act not specified in paragraph (1) shall take effect upon the entry into force of the Convention for the United States pursuant to Article 46(2)(a) of the Convention.

(b) TRANSITION RULE.—The Convention and this Act shall not apply—

(1) in the case of a child immigrating to the United States, if the application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for the child is filed before the effective date described in subsection (a)(2); or

(2) in the case of a child emigrating from the United States, if the prospective adoptive parents of the child initiated the adoption process in their country of residence with the filing of an appropriate application before the effective date described in subsection (a)(2).

b. Extradition Treaties Interpretation Act of 1998

Title II of Public Law 105-323 [H.R. 4660], 112 Stat. 3029 at 3033, approved October 30, 1998

TITLE II—EXTRADITION TREATIES INTERPRETATION ACT OF 1998¹

SEC. 201. SHORT TITLE.

This title may be cited as the “Extradition Treaties Interpretation Act of 1998”.

SEC. 202. FINDINGS.

Congress finds that—

(1) each year, several hundred children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;

(2) until the mid-1970’s, parental abduction generally was not considered a criminal offense in the United States;

(3) since the mid-1970’s, United States criminal law has evolved such that parental abduction is now a criminal offense in each of the 50 States and the District of Columbia;

(4) in enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204), Congress recognized the need to combat parental abduction by making the act of international parental kidnapping a Federal criminal offense;

(5) many of the extradition treaties to which the United States is a party specifically list the offenses that are extraditable and use the word “kidnapping”, but it has been the practice of the United States not to consider the term to include parental abduction because these treaties were negotiated by the United States prior to the development in United States criminal law described in paragraphs (3) and (4);

(6) the more modern extradition treaties to which the United States is a party contain dual criminality provisions, which provide for extradition where both parties make the offense a felony, and therefore it is the practice of the United States to consider such treaties to include parental abduction if the other foreign state party also considers the act of parental abduction to be a criminal offense; and

(7) this circumstance has resulted in a disparity in United States extradition law which should be rectified to better protect the interests of children and their parents.

SEC. 203. INTERPRETATION OF EXTRADITION TREATIES.

For purposes of any extradition treaty to which the United States is a party, Congress authorizes the interpretation of the terms “kidnaping” and “kidnapping” to include parental kidnapping.

¹ 18 U.S.C. 3181 note.

c. International Child Abduction Remedies Act

Partial text of Public Law 100-300 [H.R. 3971], 102 Stat. 437, approved April 29, 1988; amended by the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 [Public Law 105-277; H.R. 4328], 112 Stat. 2681-801, approved October 21, 1998

AN ACT To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

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

SECTION 1.¹ SHORT TITLE.

This Act may be cited as the “International Child Abduction Remedies Act”.

SEC. 2.² FINDINGS AND DECLARATIONS.

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

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

¹42 U.S.C. 11601 note. See also the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204).

²42 U.S.C. 11601. See also sec. 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (in division G, Public Law 105-277; 112 Stat. 2681-846), as amended, relating to a report on compliance with the Hague Convention on International Child Abduction.

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 3.³ DEFINITIONS.

For the purpose of this Act—

(1) the term “applicant” means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term “Convention” means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term “Parent Locator Service” means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

(4) the term “petitioner” means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) The term “person” includes any individual, institution, or other legal entity or body;

(6) the term “respondent” means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term “rights of access” means visitation rights;

(8) the term “State” means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term “United States Central Authority” means the agency of the Federal Government designated by the President under section 7(a).

SEC. 4.⁴ JUDICIAL REMEDIES.

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

³42 U.S.C. 11602.

⁴42 U.S.C. 11603.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

(1) the term “authorities”, as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms “wrongful removal or retention” and “wrongfully removed or retained”, as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term “commencement of proceedings”, as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) REMEDIES UNDER THE CONVENTION NOT EXCLUSIVE.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 5.⁵ PROVISIONAL REMEDIES.

(a) AUTHORITY OF COURTS.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to

⁵ 42 U.S.C. 11604.

prevent the child's further removal or concealment before the final disposition of the petition.

(b) **LIMITATION ON AUTHORITY.**—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 6.⁶ ADMISSIBILITY OF DOCUMENTS.

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

SEC. 7.⁷ UNITED STATES CENTRAL AUTHORITY.

(a) **DESIGNATION.**—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) **FUNCTIONS.**—The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this Act.

(c) **REGULATORY AUTHORITY.**—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its function under the Convention and this Act.

(d) **OBTAINING INFORMATION FROM PARENT LOCATOR SERVICE.**—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

(e)⁸ **GRANT AUTHORITY.**—The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this Act.

SEC. 8.⁹ COSTS AND FEES.

(a) **ADMINISTRATIVE COSTS.**—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) **COSTS INCURRED IN CIVIL ACTIONS.**—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

⁶42 U.S.C. 11605.

⁷42 U.S.C. 11606.

⁸Sec. 2213 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-812) added subsec. (e).

⁹42 U.S.C. 11607.

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 9.¹⁰ COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.

(a) **IN GENERAL.**—In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) **REQUESTS FOR INFORMATION.**—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) **RESPONSIBILITY OF GOVERNMENT ENTITIES.**—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13, United States Code;

¹⁰42 U.S.C. 11608.

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) **INFORMATION AVAILABLE FROM PARENT LOCATOR SERVICE.**—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) **RECORDKEEPING.**—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 10.¹¹ INTERAGENCY COORDINATING GROUP.

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

SEC. 11.¹² AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.
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SEC. 12.¹³ AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purpose of the Convention and this Act.

¹¹ 42 U.S.C. 11609.

¹² Sec. 11 amended sec. 463 of the Social Security Act (42 U.S.C. 663).

¹³ 42 U.S.C. 11610.

d. Relating to the Implementation of the Convention on the Civil Aspects of International Child Abduction

Executive Order 12648, August 11, 1988, 53 F.R. 30637, 42 U.S.C. 11606 note

The United States of America deposited its instrument of ratification of the Hague Convention on the Civil Aspects of International Child Abduction ("Convention") on April 29, 1988. The Convention entered into force for the United States on July 1, 1988. Article 6 of the Convention imposes upon Contracting States an obligation to designate a "Central Authority" for the purpose of discharging certain specified functions.

In order that the Government of the United States of America may give full and complete effect to the Convention, and pursuant to section 7 of the International Child Abduction Remedies Act, Public Law 100-300 (1988), it is expedient and necessary that I designate a Central Authority within the Executive branch of said Government:

NOW THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of Title 3 of the United States Code and section 7 of the International Child Abduction Remedies Act, it is ordered as follows:

Section 1. *Designation of Central Authority.* The Department of State is hereby designated as the Central Authority of the United States for purposes of the Hague Convention on the Civil Aspects of International Child Abduction. The Secretary of State is hereby authorized and empowered, in accordance with such regulations as he may prescribe, to perform all lawful acts that may be necessary and proper in order to execute the functions of the Central Authority in a timely and efficient manner.

e. Child Health Revolution

Public Law 98-198 [S.J. Res. 111], 97 Stat. 1355, approved December 1, 1983

JOINT RESOLUTION Expressing the sense of the Congress with respect to international efforts to further a revolution in child health.

Whereas the report entitled “State of the World’s Children, 1982–83” of the United Nations Children’s Fund (hereafter in this joint resolution referred to as “UNICEF”) offers unprecedented hope for a “revolution in child health” which could save the lives of up to twenty thousand of the forty thousand children who perish daily around the world from malnutrition and disease;

Whereas the techniques involved in this health revolution including oral rehydration home treatment, low-cost vaccines which do not require refrigeration, promotion of breast-feeding, and use of child growth charts to detect malnutrition, are estimated to cost only a few dollars per child;

Whereas this UNICEF report and the activities of UNICEF have been widely acclaimed by the Secretary General of the United Nations and the heads of the governments of such countries as the United Kingdom, France, Sweden, India, and Pakistan; and

Whereas the President of the United States on April 18, 1983, has issued a statement endorsing this health revolution for children and calling on the cooperation of United States Government agencies with international organizations and agencies associated in this effort: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the techniques articulated by UNICEF in its report entitled “The State of the World’s Children, 1982–1983” represent an unprecedented low-cost opportunity to significantly reduce child mortality and morbidity throughout the world, and have the full support and encouragement of the Congress at a time of economic difficulty and constriction for all countries;

(2) the President be commended for taking steps to promote, encourage, and undertake activities to further the objectives of the child health revolution and for directing all appropriate United States Government agencies, including the Department of State, the Agency for International Development, and the Department of Health and Human Services to support and cooperate with UNICEF, the World Health Organization, the United Nations Development Program, and other international financial and assistance agencies participating in fostering this child health revolution; and

(3) other public and private organizations involved in health, education, finance, labor, communications, and humanitarian assistance should cooperate with and support the efforts of the

United States to further the objectives of the child health revolution.

Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2000*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

Public Law No.	Short Title
106-570	Assistance for International Malaria Control Act
106-570	International Malaria Control Act (title I)
106-570	United States-Macau Policy Act of 2000 (title II)
106-570	Pacific Charter Commission Act of 2000 (title IV)
106-570	Paul D. Coverdell World Wise Schools Act of 2000 (title VI)
106-567	Intelligence Authorization Act for Fiscal Year 2001
106-567	Japanese Imperial Government Disclosure Act of 2000 (title VIII)
106-557	Shark Finning Prohibition Act
106-555	Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000
106-554	Consolidated Appropriations Act, 2001
106-554	Vietnam Education Foundation Act of 2000 (title II)
106-553	Department of State and Related Agency Appropriations Act, 2001
106-531	Reports Consolidation Act of 2000
106-484	Bring Them Home Alive Act of 2000
106-476	Tariff Suspension and Trade Act of 2000
106-450	Yukon River Salmon Act of 2000
106-429	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001
106-411	Great Ape Conservation Act of 2000
106-387	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001
106-387	Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX)
106-398	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

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- 106-386 Victims of Trafficking and Violence Protection Act of 2000
- 106-386 Trafficking Victims Protection Act of 2000 (division A)
- 106-373 Famine Prevention and Freedom From Hunger Improvement Act of 2000
- 106-346 National Terrorist Asset Trading Center
- 106-309 Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
- 106-309 Microenterprise for Self-Reliance Act of 2000 (title I)
- 106-309 International Anti-Corruption and Good Governance Act of 2000 (title II)
- 106-309 International Academic Opportunities Act of 2000 (title III)
- 106-309 Support for Overseas Cooperative Development Act (sec. 401)
- 106-309 Paul D. Coverdell Fellows Program Act of 2000 (sec. 408)
- 106-291 Department of the Interior and Related Agencies Appropriations Act, 2001
- 106-286 U.S.-China Relations Act of 2000
- 106-280 Security Assistance Act of 2000
- 106-279 Intercountry Adoption Act of 2000
- 106-264 Global AIDS and Tuberculosis Relief Act of 2000
- 106-264 Global AIDS Research and Relief Act of 2000 (title I)
- 106-264 International Tuberculosis Control Act of 2000 (title II)
- 106-259 Department of Defense Appropriations Act, 2001
- 106-256 Oceans Act of 2000
- 106-247 Neotropical Migratory Bird Conservation Act
- 106-246 Emergency Supplemental Act, 2000
- 106-212 American Institute in Taiwan Facilities Enhancement Act
- 106-200 Trade and Development Act of 2000
- 106-200 African Growth and Opportunity Act (title I)
- 106-200 U.S.-Caribbean Basin Trade Partnership Act (title II)
- 106-178 Iran Nonproliferation Act of 2000
- 106-158 Export Enhancement Act of 1999
- 106-120 Intelligence Authorization Act for Fiscal Year 2000
- 106-120 Foreign Narcotics Kingpin Designation Act (title VIII)
- 106-113 Consolidated Appropriations, Fiscal Year 2000
- 106-113 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (H.R. 3421, enacted by reference)
- 106-113 Department of State and Related Agency Appropriations Act, 2000 (title IV, H.R. 3421, enacted by reference)
- 106-113 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference)
- 106-113 Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference)
- 106-113 Miscellaneous Appropriations, 2000 (H.R. 3425, enacted by reference)

106-113	Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)
106-113	Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference)
106-113	North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference)
106-113	United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference)
106-113	Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)
106-113	Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)
106-113	National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference)
106-113	Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference)
106-113	Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference)
106-113	Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference)
106-113	International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference)
106-108	Arctic Tundra Habitat Emergency Conservation Act
106-87	Torture Victims Relief Reauthorization Act of 1999
106-79	Department of Defense Appropriations Act, 2000
106-65	National Defense Authorization Act for Fiscal Year 2000
106-65	Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV)
106-38	National Missile Defense Act of 1999
106-36	Miscellaneous Trade and Technical Corrections Act of 1999
106-35	Western Hemisphere Drug Elimination Technical Corrections Act
106-31	1999 Emergency Supplemental Appropriations Act
106-30	Peace Corps Reauthorization
105-385	Africa: Seeds of Hope Act of 1998
105-384	Governing International Fisheries Agreement with Poland
105-382	Department of State Special Agents Retirement Act of 1998
105-366	International Anti-Bribery and Fair Competition Act of 1998
105-362	Federal Reports Elimination Act of 1998
105-338	Iraq Liberation Act of 1998
105-323	Extradition Treaties Interpretation Act of 1998

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| 105-319 | Irish Peace Process Cultural and Training Program Act of 1998 |
| 105-312 | Rhinoceros and Tiger Conservation Act of 1998 |
| 105-303 | Commercial Space Act of 1998 |
| 105-292 | International Religious Freedom Act of 1998 |
| 105-277 | Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 |
| 105-277 | Department of State and Related Agencies Appropriations Act, 1999 (sec. 101(b)) |
| 105-277 | Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX) |
| 105-277 | Trade Deficit Review Commission Act (division A, sec. 127) |
| 105-277 | Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII) |
| 105-277 | Western Hemisphere Drug Elimination Act (division C, title VIII) |
| 105-277 | Foreign Affairs Reform and Restructuring Act of 1998 (division G) |
| 105-277 | Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A) |
| 105-277 | Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B) |
| 105-277 | United Nations Reform Act of 1998 (division G, subdivision C) |
| 105-277 | European Security Act of 1998 (division G, title XXVII) |
| 105-277 | Chemical Weapons Convention Implementation Act of 1998 (division I) |
| 105-262 | Department of Defense Appropriations Act, 1999 |
| 105-261 | Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 |
| 105-261 | Defense Against Weapons of Mass Destruction Act of 1998 (title XIV) |
| 105-261 | Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV) |
| 105-261 | Radio Free Asia Act of 1998 (title XXXIX) |
| 105-246 | Nazi War Crimes Disclosure Act |
| 105-235 | Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations |
| 105-217 | African Elephant Conservation Reauthorization Act of 1998 |
| 105-194 | Agriculture Export Relief Act of 1998 |
| 105-186 | U.S. Holocaust Assets Commission Act of 1998 |
| 105-174 | 1998 Supplemental Appropriations and Rescissions Act |
| 105-173 | International Parental Kidnapping Crime Act |
| 105-158 | Holocaust Victims Redress Act |
| 105-119 | Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 |
| 105-119 | Department of State Appropriations Act, 1998 |
| 105-107 | Intelligence Authorization Act for Fiscal Year 1998 |

105–100	Nicaraguan Adjustment and Central American Relief Act (title II)
105–96	Asian Elephant Conservation Act of 1997
105–85	National Defense Authorization Act for Fiscal Year 1998
105–42	International Dolphin Conservation Program Act
104–319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104–309	Records Relating to Nazi War Crimes
104–297	Sustainable Fisheries Act
104–293	Intelligence Authorization Act for Fiscal Year 1997
104–293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)
104–269	Release of USIA Materials: VOA, Radio Marti Recordings
104–264	Federal Aviation Reauthorization Act of 1996
104–227	Antarctic Science, Tourism, and Conservation Act of 1996
104–208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104–208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104–203	Most-Favored-Nation Treatment for Cambodia
104–201	National Defense Authorization Act for Fiscal Year 1997
104–201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)
104–201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104–201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)
104–172	Iran and Libya Sanctions Act of 1996
104–171	Most-Favored-Nation Treatment for Romania
104–164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104–162	Most-Favored-Nation Treatment for People’s Republic of Bulgaria
104–161	Release of USIA Materials: “Fragile Ring of Life”
104–132	Antiterrorism and Effective Death Penalty Act of 1996
104–127	Federal Agriculture Improvement and Reform Act of 1996
104–114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104–107	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996
104–106	National Defense Authorization Act for Fiscal Year 1996
104–106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104–93	Intelligence Authorization Act for Fiscal Year 1996
104–72	Au Pair Extension
104–66	Federal Reports Elimination and Sunset Act of 1995
104–45	Jerusalem Embassy Act of 1995

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| 104-43 | Fisheries Act of 1995 |
| 104-43 | High Seas Fishing Compliance Act of 1995 (title I) |
| 104-43 | Northwest Atlantic Fisheries Convention Act of 1995 (title II) |
| 104-43 | Atlantic Tunas Convention Act of 1995 (title III) |
| 104-43 | Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V) |
| 104-43 | High Seas Driftnet Fishing Moratorium Protection Act (title VI) |
| 104-43 | Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997 |
| 104-6 | Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 |
| 104-6 | Mexican Debt Disclosure Act of 1995 (title IV) |
| 103-465 | Uruguay Rounds Agreements Act |
| 103-465 | Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a)) |
| 103-447 | International Narcotics Control Corrections Act of 1994 |
| 103-447 | NATO Participation Act of 1994 (title II) |
| 103-423 | United States Policy Toward Haiti |
| 103-416 | Visa for Officials of Taiwan |
| 103-392 | Jobs Through Trade Expansion Act of 1994 |
| 103-391 | Rhinoceros and Tiger Conservation Act of 1994 |
| 103-381 | African Conflict Resolution Act |
| 103-372 | To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974 |
| 103-337 | National Defense Authorization Act for Fiscal Year 1995 |
| 103-306 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 |
| 103-294 | Helsinki Human Rights Day |
| 103-236 | Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 |
| 103-236 | Mike Mansfield Fellowship Act (title II, part C) |
| 103-236 | United States International Broadcasting Act of 1994 (title III) |
| 103-236 | Spoils of War Act of 1994 (title V, part B) |
| 103-236 | Anti-Economic Discrimination Act of 1994 (title V, part C) |
| 103-236 | Cambodian Genocide Justice Act (title V, part D) |
| 103-236 | Middle East Peace Facilitation Act of 1994 (title V, part E) |
| 103-236 | Arms Control and Nonproliferation Act of 1994 (title VII, part A) |
| 103-236 | Nuclear Proliferation Prevention Act of 1994 (title VIII) |
| 103-236 | Protection and Reduction of Government Secrecy Act (title IX) |
| 103-206 | Coast Guard Authorization Act of 1993 |

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- 103-199 Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)
- 103-182 North American Free Trade Agreement Implementation Act
- 103-160 National Defense Authorization Act for Fiscal Year 1994
- 103-160 Cooperative Threat Reduction Act of 1993 (title XII)
- 103-160 Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)
- 103-160 National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)
- 103-160 Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)
- 103-158 Act to Honor the Victims of the Bombing of Panam Flight 103
- 103-149 South African Democratic Transition Support Act of 1993
- 103-133 Nondiscriminatory Treatment Toward Products of Romania
- 103-125 Middle East Peace Facilitation Act of 1993
- 102-588 National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993
- 102-587 Oceans Act of 1992
- 102-587 North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)
- 102-582 High Seas Driftnet Fisheries Enforcement Act
- 102-582 Central Bering Sea Fisheries Enforcement Act of 1992 (title III)
- 102-567 North Pacific Anadromous Stocks Act of 1992 (title VIII)
- 102-565 Peace Corps Authorization for Fiscal Year 1993
- 102-549 Jobs Through Exports Act of 1992
- 102-549 Aid, Trade, and Competitiveness Act of 1992 (title III)
- 102-549 Enterprise for the Americas Act of 1992 (title VI)
- 102-532 Enterprise for the Americas Initiative Act of 1992
- 102-523 International Dolphin Conservation Act of 1992
- 102-511 Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)
- 102-509 Soviet Scientists Immigration Act of 1992
- 102-486 Energy Policy Act of 1992
- 102-484 National Defense Authorization Act for Fiscal Year 1993
- 102-484 Former Soviet Union Demilitarization Act of 1992 (title XIV)
- 102-484 Weapons of Mass Destruction Control Act of 1992 (title XV)
- 102-484 Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
- 102-484 Cuban Democracy Act of 1992 (title XVII)
- 102-484 Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)

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- 102-454 Distribution of USIA Materials
 - 102-450 Asian/Pacific American Heritage Month—Designation
 - 102-429 Export Enhancement Act of 1992
 - 102-420 Withdrawal of MFN From Serbia and Montenegro
 - 102-404 Chinese Student Protection Act of 1992
 - 102-396 Department of Defense Appropriations Act, 1993
 - 102-391 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
 - 102-383 United States-Hong Kong Policy Act of 1992
 - 102-372 Tourism Policy and Export Promotion Act of 1992
 - 102-363 Nondiscriminatory Treatment Toward Products of Albania
 - 102-311 International Peacekeeping Act of 1992
 - 102-274 Horn of Africa Recovery and Food Security Act
 - 102-270 Peace Process in Liberia
 - 102-256 Torture Victim Protection Act of 1991
 - 102-247 Omnibus Insular Areas Act of 1992
 - 102-237 Food, Agriculture, Conservation, and Trade Act Amendments of 1991
 - 102-228 Conventional Forces in Europe Treaty Implementation Act of 1991
 - 102-228 Soviet Nuclear Threat Reduction Act of 1991 (title II)
 - 102-197 Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
 - 102-195 National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
 - 102-190 National Defense Authorization Act for Fiscal Years 1992 and 1993
 - 102-190 Missile Defense Act of 1991 (title II, part C)
 - 102-190 Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
 - 102-183 David L. Boren National Security Education Act of 1991 (title VIII)
 - 102-182 Termination of Trade Restrictions to Czechoslovakia and Hungary
 - 102-182 Andean Trade Preference Act (title II)
 - 102-182 Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
 - 102-158 Most-Favored Nation Treatment for People's Republic of Bulgaria
 - 102-157 Most-Favored Nation Treatment for Mongolian People's Republic
 - 102-138 Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
 - 102-138 Dante B. Fascell North-South Center Act of 1991 (sec. 208)
 - 102-21 Emergency Supplemental Assistance for Israel Act of 1991
 - 102-20 Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
 - 102-1 Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
 - 101-649 Immigration Act of 1990
 - 101-647 Crime Control Act of 1990

101-646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101-627	Fishery Conservation Amendments of 1990
101-627	Dolphin Protection Consumer Information Act (title IX)
101-624	Food, Agriculture, Conservation, and Trade Act of 1990
101-624	Agricultural Development and Trade Act of 1990 (title XV)
101-624	Global Climate Change Prevention Act of 1990 (title XXIV)
101-623	International Narcotics Control Act of 1990
101-620	Protection of Antarctica
101-611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101-610	National and Community Service Act of 1990
101-606	Global Change Research Act of 1990
101-606	International Cooperation in Global Change Research Act of 1990 (title II)
101-604	Aviation Security Improvement Act of 1990
101-594	Antarctic Protection Act of 1990
101-549	Clean Air Act Amendments
101-541	Most-Favored-Nation Treatment for Czechoslovakia
101-533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101-513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101-513	European Bank for Reconstruction and Development Act (sec. 562(c))
101-513	Iraq Sanctions Act of 1990 (secs. 586-586J)
101-513	International Forestry Cooperation Act of 1990 (title VI)
101-511	Department of Defense Appropriations Act, 1991
101-510	National Defense Authorization Act for Fiscal Year 1991
101-510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101-508	Omnibus Budget Reconciliation Act of 1990
101-508	Budget Enforcement Act of 1990 (title XIII)
101-454	Eisenhower Exchange Fellowship Act of 1990
101-454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101-438	Rio Grande American Canal Extension Act of 1990
101-382	Customs and Trade Act of 1990
101-382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101-382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101-380	Oil Pollution Act of 1990
101-328	National Space Council Authorization Act of 1990
101-298	Biological Weapons Anti-Terrorism Act of 1989
101-246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101-246	PLO Commitments Compliance Act of 1989 (title VIII)

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| 101-243 | Urgent Assistance for Democracy in Panama Act of 1990 |
| 101-240 | International Development and Finance Act of 1989 |
| 101-240 | Foreign Debt Reserving Act of 1989 (title IV) |
| 101-240 | Global Environmental Protection Assistance Act of 1989 (title VII) |
| 101-231 | International Narcotics Control Act of 1989 |
| 101-219 | Implementation of Compact of Free Association With Palau |
| 101-216 | Arms Control and Disarmament Amendments Act of 1989 |
| 101-215 | Survival Assistance for Victims of Civil Strife in Central America |
| 101-189 | National Defense Authorization Act for Fiscal Years 1990 and 1991 |
| 101-179 | Support for East European Democracy (SEED) Act of 1989 |
| 101-167 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 |
| 101-162 | Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 |
| 101-62 | Implementing Agreement for Vienna Convention on Diplomatic Relations |
| 100-690 | International Narcotics Control Act of 1988 (title IV) |
| 100-685 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 |
| 100-629 | U.S.-U.S.S.R. Fishing Agreement |
| 100-576 | Bangladesh Disaster Assistance Act of 1988 |
| 100-530 | International Cooperation to Protect Biological Diversity |
| 100-478 | African Elephant Conservation Act (title II) |
| 100-465 | Rio Grande Pollution Correction Act of 1987 |
| 100-463 | Department of Defense Appropriations Act, 1989 |
| 100-461 | Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference) |
| 100-461 | Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference) |
| 100-456 | National Defense Authorization Act, Fiscal Year 1989 |
| 100-449 | United States-Canada Free Trade Agreement Implementation Act of 1988 |
| 100-418 | Omnibus Trade and Competitiveness Act of 1988 |
| 100-418 | Telecommunications Trade Act of 1988 (title I, subtitle C, part 4) |
| 100-418 | Export Enhancement Act 1988 (title II) |
| 100-418 | Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II) |
| 100-418 | American Aid to Poland Act of 1988 (title II, subtitle B, part II) |
| 100-418 | Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II) |
| 100-418 | Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A) |

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- 100-418 International Debt Management Act of 1988 (title III, subtitle B)
- 100-418 Multilateral Development Banks Procurement Act (title III, subtitle C)
- 100-418 Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
- 100-418 Primary Dealers Act of 1988 (title III, subtitle F)
- 100-418 Financial Reports Act of 1988 (title III, subtitle G)
- 100-418 Agricultural Competitiveness and Trade Act of 1988 (title IV)
- 100-418 Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
- 100-418 Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
- 100-418 Competitiveness Policy Council Act (title V, part I, subtitle C)
- 100-418 Small Business International Trade and Competitiveness Act (title VII)
- 100-418 Foreign Shipping Practices Act of 1988 (title X)
- 100-393 Dire Emergency Supplemental Appropriations Act, 1988
- 100-373 International Energy Emergency Authorities: Extension
- 100-350 German Democratic Republic Fishery Agreement
- 100-330 South Pacific Tuna Act of 1988
- 100-300 International Child Abduction Remedies Act
- 100-276 Central American Peace Assistance
- 100-220 United States-Japan Fishery Agreement Approval Act of 1987
- 100-220 Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
- 100-213 Arms Control and Disarmament Amendments Act of 1987
- 100-204 Foreign Relations Authorization Act, Fiscal Years 1988 and 1989
- 100-204 United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)
- 100-204 Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
- 100-204 Anti-Terrorism Act of 1987 (title X)
- 100-204 Global Climate Protection Act of 1987 (title XI)
- 100-202 Continuing Appropriations, Fiscal Year 1988
- 100-202 Department of State Appropriations Act, 1988 (sec. 101(a), title III)
- 100-202 Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
- 100-202 Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
- 100-202 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))
- 100-202 Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
- 100-180 National Defense Authorization Act for Fiscal Years 1988 and 1989

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- 100–147 National Aeronautics and Space Administration Authorization Act of 1988
 - 100–113 Federal Triangle Development Act
 - 100–66 United States-Korea Fishery Agreement
 - 99–661 National Defense Authorization Act, Fiscal Year 1987
 - 99–661 Department of Defense Authorization Act, 1987 (Division A)
 - 99–658 Approval of the Compact of Free Association With the Government of Palau
 - 99–630 Humpback Whales Wildlife Sanctuary (West Indies)
 - 99–603 Immigration Reform and Control Act of 1986
 - 99–570 International Narcotics Control Act of 1986 (title II)
 - 99–529 Special Foreign Assistance Act of 1986
 - 99–513 R.M.S. Titanic Maritime Memorial Act of 1986
 - 99–498 Higher Education Amendments of 1986
 - 99–475 Release of USIA Materials to Museums
 - 99–472 Export-Import Bank Act Amendments of 1986
 - 99–415 Anglo-Irish Agreement Support Act of 1986
 - 99–399 Omnibus Diplomatic Security and Antiterrorism Act of 1986
 - 99–399 Diplomatic Security Act (titles I–IV)
 - 99–399 Victims of Terrorism Compensation Act (title VIII)
 - 99–399 International Maritime and Port Security Act (title IX)
 - 99–399 Fascell Fellowship Act (title X)
 - 99–239 Compact of Free Association Act of 1985
 - 99–198 Food Security Act of 1985
 - 99–198 Food for Progress Act of 1985 (sec. 1110)
 - 99–190 Further Continuing Appropriations, 1985
 - 99–190 Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
 - 99–180 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
 - 99–177 Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
 - 99–162 Sales of Arms to Jordan
 - 99–145 Department of Defense Authorization Act, 1986
 - 99–93 Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
 - 99–93 United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
 - 99–93 Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
 - 99–93 Iran Claims Settlement (title V)
 - 99–93 United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
 - 99–93 Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)
 - 99–88 Supplemental Appropriations Act, 1985
 - 99–88 Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)

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- 99-85 Authorization for an Improved U.S./Soviet Direct Communications Link
- 99-83 International Security and Development Cooperation Act of 1985
- 99-83 International Narcotics Control Act of 1985 (title VI)
- 99-83 Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)
- 99-64 Export Administration Amendments Act of 1985
- 99-47 United States-Israel Free Trade Area Implementation Act of 1985
- 99-8 African Famine Relief and Recovery Act of 1985
- 99-5 Pacific Salmon Treaty Act of 1985
- 98-623 Governing International Fishery Agreements With Iceland and the European Economic Community (title I)
- 98-623 Antarctic Marine Living Resources Convention Act of 1984 (title III)
- 98-618 Intelligence Authorization Act for Fiscal Year 1985
- 98-573 Trade and Tariff Act of 1984
- 98-573 International Trade and Investment Act (title III)
- 98-573 Generalized System of Preferences Renewal Act of 1984 (title V)
- 98-573 Steel Import Stabilization Act (title VIII)
- 98-573 Wine Equity and Export Expansion Act of 1984 (title IX)
- 98-562 Cooperative East-West Ventures in Space
- 98-533 1984 Act to Combat International Terrorism
- 98-525 Department of Defense Authorization Act, 1985
- 98-525 United States Institute for Peace Act (title XVII)
- 98-473 Continuing Appropriations, 1985
- 98-473 Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)
- 98-473 President's Emergency Food Assistance Act of 1984 (title III)
- 98-447 United States Government Opposition to the Practice of Torture
- 98-445 Eastern Pacific Tuna Licensing Act of 1984
- 98-373 Arctic Research and Policy Act of 1984 (title I)
- 98-373 National Critical Materials Act of 1984 (title II)
- 98-266 Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland
- 98-258 Agricultural Programs Adjustment Act of 1984
- 98-258 Agricultural Exports (title V)
- 98-198 Child Health Revolution
- 98-181 Supplemental Appropriations Act, 1984
- 98-181 Trade and Development Enhancement Act of 1983 (title VI, part C)
- 98-181 International Lending Supervision Act of 1983 (title IX)
- 98-181 Multilateral Development Banks: Sense of Congress (title X)
- 98-164 Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)

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- 98-164 United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
- 98-164 Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
- 98-164 Asia Foundation Act (title IV)
- 98-164 National Endowment for Democracy Act (title V)
- 98-164 Foreign Missions Amendments Act (title VI)
- 98-164 International Environmental Protection Act of 1983 (title VII)
- 98-164 Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)
- 98-164 United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
- 98-151 Continuing Resolution, 1984
- 98-151 Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
- 98-151 International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
- 98-119 Multinational Force in Lebanon Resolution
- 98-111 Radio Broadcasting to Cuba Act
- 98-94 Department of Defense Authorization Act, 1984
- 98-67 Caribbean Basin Economic Recovery Act (title II)
- 98-43 Lebanon Emergency Assistance Act of 1983
- 97-446 Convention on Cultural Property Implementation Act (title III)
- 97-425 Nuclear Waste Policy Act of 1982
- 97-418 Protection of Foreign Missions
- 97-389 Fisheries Amendments of 1982
- 97-389 Atlantic Salmon Convention Act of 1982 (title III)
- 97-389 Governing International Fishery Agreements with Japan and Spain (title IV)
- 97-325 International Carriage of Perishable Foodstuffs Act
- 97-290 Export Trading Company Act of 1982 (title I)
- 97-290 Bank Export Services Act (title II)
- 97-252 Department of Defense Authorization Act, 1983
- 97-241 Department of State Authorization Act, Fiscal Years 1982 and 1983
- 97-241 Foreign Missions Act (title II)
- 97-241 United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
- 97-241 Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
- 97-229 Energy Emergency Preparedness Act of 1982
- 97-145 Export Administration Amendments Act of 1981
- 97-132 Multinational Force and Observers Participation Resolution
- 97-127 Czechoslovakian Claims Settlement Act of 1981
- 97-113 International Security and Development Cooperation Act of 1981
- 97-98 Agriculture and Food Act of 1981
- 97-98 Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)

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- 97-35 African Development Bank Act (title XIII, subtitle B, part 3)
- 96-599 International Coffee Agreement Act of 1980
- 96-561 American Fisheries Promotion Act (title II)
- 96-533 International Security and Development Cooperation Act of 1980
- 96-533 African Development Foundation Act (title V)
- 96-494 Agriculture Act of 1980
- 96-494 Agricultural Trade Suspension Adjustment Act of 1980 (title II)
- 96-494 Bill Emerson Humanitarian Trust Act (title III)
- 96-487 Alaska National Interests Lands Conservation Act
- 96-478 Act to Prevent Pollution from Ships
- 96-465 Foreign Service Act of 1980
- 96-449 Hostage Relief Act of 1980
- 96-422 Refugee Education Assistance Act of 1980
- 96-389 Bretton Woods Agreements Act Amendments, 1980
- 96-339 Atlantic Tunas Convention Act of 1975, Appropriation Authorization
- 96-323 North Atlantic Treaty Organization Mutual Support Act of 1979
- 96-283 Deep Seabed Hard Mineral Resources Act
- 96-283 Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
- 96-280 Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
- 96-271 International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
- 96-259 Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
- 96-236 International Sugar Agreement, 1977, Implementation
- 96-212 Refugee Act of 1980
- 96-175 Strategic and Critical Materials Transaction Authorization Act of 1979
- 96-133 Energy Policy and Conservation Act Amendments
- 96-92 International Security Assistance Act of 1979
- 96-72 Export Administration Act of 1979
- 96-70 Panama Canal Act of 1979
- 96-60 Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
- 96-60 International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)
- 96-53 International Development Cooperation Act of 1979
- 96-39 Trade Agreements Act of 1979
- 96-35 Special International Security Assistance Act of 1979
- 96-9 Reaffirming North Atlantic Alliance—United States Commitment
- 96-8 Taiwan Relations Act
- 95-630 Financial Institutions Regulatory and Interest Rate Control Act of 1978
- 95-630 Export-Import Bank Act Amendments of 1978 (title XIX)

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- 95-561 Education Amendments of 1978
 - 95-561 National Academy of Peace and Conflict Resolution (title XV, part B)
 - 95-511 Foreign Intelligence Surveillance Act of 1978
 - 95-501 Agricultural Trade Act of 1978
 - 95-485 Department of Defense Appropriation Authorization Act, 1979
 - 95-452 Inspector General Act of 1978
 - 95-435 Bretton Woods Agreements Act Amendments, 1978
 - 95-426 Foreign Relations Authorization Act, Fiscal Year 1979
 - 95-426 International Communication Agency Authorization for Fiscal Year 1979 (title II)
 - 95-424 International Development and Food Assistance Act of 1978
 - 95-393 Diplomatic Relations Act
 - 95-384 International Security Assistance Act of 1978
 - 95-287 Reaffirming the Unity of the North Atlantic Alliance Commitment
 - 95-242 Nuclear Non-Proliferation Act of 1978
 - 95-238 Department of Energy Act of 1978
 - 95-223 International Emergency Economic Powers Act (title II)
 - 95-213 Foreign Corrupt Practices Act of 1977 (title I)
 - 95-118 International Financial Institutions Act
 - 95-113 Food and Agriculture Act of 1977
 - 95-105 Foreign Relations Authorization Act, Fiscal Year 1978
 - 95-105 United States Information Agency Authorization for Fiscal Year 1978 (title II)
 - 95-92 International Security Assistance Act of 1977
 - 95-88 International Development and Food Assistance Act of 1977
 - 95-6 Fishery Conservation Zone Transition Act
 - 94-583 Foreign Sovereign Immunities Act of 1976
 - 94-472 International Investment and Trade in Services Survey Act
 - 94-412 National Emergencies Act
 - 94-350 Foreign Relations Authorization Act, Fiscal Year 1977
 - 94-350 United States Information Agency Authorization for Fiscal Year 1977 (title II)
 - 94-350 Foreign Service Retirement Amendments of 1976 (title V)
 - 94-329 International Security Assistance and Arms Export Control Act of 1976
 - 94-304 Establishing a Commission on Security and Cooperation in Europe
 - 94-302 African Development Fund Act (title II)
 - 94-265 Magnuson-Stevens Fishery Conservation and Management Act of 1976
 - 94-265 Driftnet Act Amendments of 1990 (sec. 206)
 - 94-163 Energy Policy and Conservation Act
 - 94-161 International Development and Food Assistance Act of 1975
 - 94-141 Foreign Relations Authorization Act, Fiscal Year 1976
 - 94-118 Japan-United States Friendship Act

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- 94-110 Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94-70 Atlantic Tunas Convention Act of 1975
94-39 National Aeronautics and Space Administration Authorization Act, 1976
93-627 Deepwater Port Act of 1974
93-618 Trade Act of 1974
93-618 Narcotics Control Trade Act (title VIII)
93-559 Foreign Assistance Act of 1974
93-479 Foreign Investment Study Act of 1974
93-475 State Department/USIA Authorization Act, Fiscal Year 1975
93-366 Antihijacking Act of 1974
93-365 Department of Defense Appropriation Authorization Act, 1975
93-248 Intervention on the High Seas Act
93-205 Endangered Species Act of 1973
93-199 Emergency Security Assistance Act of 1973
93-189 Foreign Assistance Act of 1973
93-188 United Nations Environment Program Participation Act of 1973
93-153 Trans-Alaska Pipeline Authorization Act
93-148 War Powers Resolution
93-129 Board for International Broadcasting Act of 1973
93-126 Department of State Appropriations Authorization Act of 1973
93-110 Par Value Modification Act—Foreign Currency Reports (title II)
92-544 Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92-522 Marine Mammal Protection Act of 1972
92-499 Act to Extend Diplomatic Privileges to the Commission of the European Communities
92-403 Case Act—Transmittal of International Agreements
92-352 Foreign Relations Authorization Act of 1972
92-268 Par Value Modification Act
92-257 Trust Territory of the Pacific Islands Act
92-226 Foreign Assistance Act of 1971
92-39 Micronesian Claims Act of 1971
91-672 Foreign Military Sales Act Amendments, 1971
91-652 Special Foreign Assistance Act of 1971
91-441 Armed Forces Appropriation Authorization, 1971
91-269 United States Recognition and Participation in International Expositions
91-175 Foreign Assistance Act of 1969, as amended
90-629 Arms Export Control Act
90-554 Foreign Assistance Act of 1968
90-553 International Center Act
90-390 Export Loans—Assistance
90-349 Special Drawing Rights Act
90-137 Foreign Assistance Act of 1967
89-732 Cuban Refugee Adjustment Act
89-673 Foreign Gifts and Decorations Act of 1966

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- 89-583 Foreign Assistance Act of 1966
89-532 Convention on the Settlement of Investment Disputes Act of 1966
89-486 Foreign Agents Registration Act Amendments
89-369 Asian Development Bank Act
89-296 Ryukyu Islands Claims Settlement Act
89-259 Cultural Objects—Importation for Temporary Display
89-171 Foreign Assistance Act of 1965
89-134 Peace Corps Act Amendments
88-633 Foreign Assistance Act of 1964
88-408 Tonkin Gulf Resolution
88-205 Foreign Assistance Act of 1963
87-826 Collection and Publication of Foreign Commerce and Trade Statistics
87-794 Trade Expansion Act of 1962
87-733 Cuban Resolution
87-565 Foreign Assistance Act of 1962
87-510 Migration and Refugee Assistance Act of 1962
87-297 Arms Control and Disarmament Act
87-293 Peace Corps Act
87-256 Mutual Educational and Cultural Exchange Act of 1961
87-195 Foreign Assistance Act of 1961
87-195 Tropical Forest Conservation Act of 1998 (part V)
87-125 General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962
86-735 Latin American Development Act
86-628 Legislative Branch Appropriation Act, 1961
86-565 International Development Association Act
86-472 Mutual Security Act of 1960
86-472 Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)
86-420 Mexico-United States Interparliamentary Group
86-147 Inter-American Development Bank Act
86-108 Mutual Security Act of 1959
86-42 Canada-United States Interparliamentary Group
85-931 Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment
85-846 EURATOM Cooperation Act of 1958
85-568 National Aeronautics and Space Act of 1958
85-474 Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959
85-177 International Atomic Energy Agency Participation Act of 1957
85-7 Resolution To Promote Peace and Stability in the Middle East
84-885 State Department Basic Authorities Act of 1956
84-689 United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution
84-350 International Finance Corporation Act
83-703 Atomic Energy Act of 1954
83-680 Fisherman’s Protective Act of 1967

83-665	Mutual Security Act of 1954
83-480	Agricultural Trade Development and Assistance Act of 1954
83-451	Civil Government for the Trust Territory of the Pacific Islands
82-486	Extending Certain Privileges to Representatives of Organization of American States
82-414	Immigration and Nationality Act
81-764	Tuna Conventions Act of 1950
81-676	Whaling Convention Act of 1949
81-507	National Science Foundation Act of 1950
81-455	International Claims Settlement Act of 1949
81-439	Agricultural Act of 1949
80-772	Act of June 25, 1948
80-772	Logan Act—Private Correspondence With Foreign Governments
80-772	Johnson Act—Financial Transactions With Foreign Governments
80-402	United States Information and Educational Exchange Act of 1948
80-357	United Nations Headquarters Agreement Act
80-253	National Security Council
79-547	Act of July 25, 1946
79-291	International Organizations Immunities Act
79-264	United Nations Participation Act of 1945
79-173	Export-Import Bank Act of 1945
79-171	Bretton Woods Agreements Act
76-54	Neutrality Act of 1939
75-583	Foreign Agents Registration Act of 1938
75-543	Act of May 25, 1938
71-361	Tariff Act of 1930
69-186	Foreign Service Buildings Act, 1926
65-91	Trading With the Enemy Act

Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2000*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

Short Title	Public Law No.
1984 Act to Combat International Terrorism	98-533
1998 Supplemental Appropriations and Rescissions Act	105-174
1999 Emergency Supplemental Appropriations Act	106-31
Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)	103-199
Act of May 25, 1938	75-543
Act of July 25, 1946	79-547
Act of June 25, 1948	80-772
Act to Extend Diplomatic Privileges to the Commis- sion of the European Communities	92-499
Act to Honor the Victims of the Bombing of Panam Flight	103-158
Act to Prevent Pollution from Ships	96-478
Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)	106-113
Africa: Seeds of Hope Act of 1998	105-385
African Conflict Resolution Act	103-381
African Development Bank Act (title XIII, subtitle B, part 3)	97-35
African Development Foundation Act (title V)	96-533
African Development Fund Act (title II)	94-302
African Elephant Conservation Act (title II)	100-478
African Elephant Conservation Reauthorization Act of 1998	105-217
African Famine Relief and Recovery Act of 1985	99-8
African Growth and Opportunity Act (title I)	106-200
Agricultural Act of 1949	81-439

Agricultural Competitiveness and Trade Act of 1988 (title IV)	100-418
Agricultural Development and Trade Act of 1990 (title XV)	101-624
Agricultural Exports (title V)	98-258
Agricultural Programs Adjustment Act of 1984	98-258
Agricultural Trade Act of 1978	95-501
Agricultural Trade Development and Assistance Act of 1954	83-480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment	85-931
Agricultural Trade Suspension Adjustment Act of 1980 (title II)	96-494
Agriculture and Food Act of 1981	97-98
Agriculture Export Relief Act	105-194
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001	106-387
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)	97-98
Aid, Trade, and Competitiveness Act of 1992 (title III)	102-549
Alaska National Interests Lands Conservation Act	96-487
American Aid to Poland Act of 1988 (title II, subtitle B, part II)	100-418
American Fisheries Promotion Act (title II)	96-561
American Institute in Taiwan Facilities Enhancement Act	106-212
Andean Trade Preference Act (title II)	102-182
Anglo-Irish Agreement Support Act of 1986	99-415
Antarctic Marine Living Resources Convention Act of 1984 (title III)	98-623
Antarctic Protection Act of 1990	101-594
Antarctic Science, Tourism, and Conservation Act of 1996	104-227
Anti-Economic Discrimination Act of 1994 (title V, part C)	103-236
Anti-Terrorism Act of 1987 (title X)	100-204
Antiterrorism and Effective Death Penalty Act of 1996	104-132
Antihijacking Act of 1974	93-366
Approval of the Compact of Free Association With the Government of Palau	99-658
Arctic Research and Policy Act of 1984 (title I)	98-373
Arctic Tundra Habitat Emergency Conservation Act ...	106-108
Armed Forces Appropriation Authorization, 1971	91-441
Arms Control and Disarmament Act	87-297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)	99-93
Arms Control and Disarmament Amendments Act of 1987	100-213
Arms Control and Disarmament Amendments Act of 1989	101-216
Arms Control and Nonproliferation Act of 1994 (title VII, part A)	103-236

Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)	106-113
Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)	106-113
Arms Export Control Act	90-629
Asia Foundation Act (title IV)	98-164
Asian Development Bank Act	89-369
Asian Elephant Conservation Act of 1997	105-96
Asian/Pacific American Heritage Month—Designation	102-450
Assistance for International Malaria Control Act	106-570
Atlantic Salmon Convention Act of 1982 (title III)	97-389
Atlantic Tunas Convention Act of 1975	94-70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization	96-339
Atlantic Tunas Convention Act of 1995 (title III)	104-43
Atlantic Tunas Convention Authorization Act of 1995 (title III)	104-43
Atomic Energy Act of 1954	83-703
Au Pair Extension	104-72
Authorization for an Improved U.S./Soviet Direct Communications Link	99-85
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678	102-1
Aviation Security Improvement Act of 1990	101-604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]	99-177
Ballistic Missile Defense Act of 1995 (title II, subtitle C)	104-106
Bangladesh Disaster Assistance Act of 1988	100-576
Bank Export Services Act (title II)	97-290
Bill Emerson Humanitarian Trust Act (title III)	96-494
Biological Weapons Anti-Terrorism Act of 1989	101-298
Board for International Broadcasting Act of 1973	93-129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V)	100-202
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)	97-241
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)	98-164
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)	99-93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)	100-204
Bretton Woods Agreements Act	79-171
Bretton Woods Agreements Act Amendments, 1978	95-435
Bretton Woods Agreements Act Amendments, 1980	96-389
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Art—Article
CFR—Code of Federal Regulations
EO—Executive Order
fn—Footnote
FR—Federal Register
G.A. Res.—General Assembly Resolution (U.N.)
H Con Res—House Concurrent Resolution
HR—House Bill
H Res—House Resolution
M/L—Memoranda/Letter
PL—Public Law
RP—Reorganization Plan
S—Senate Bill
S Con Res—Senate Concurrent Resolution
S Res—Senate Resolution
Sec—Section
Stat—United States Statutes at Large
USC—United States Code

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

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